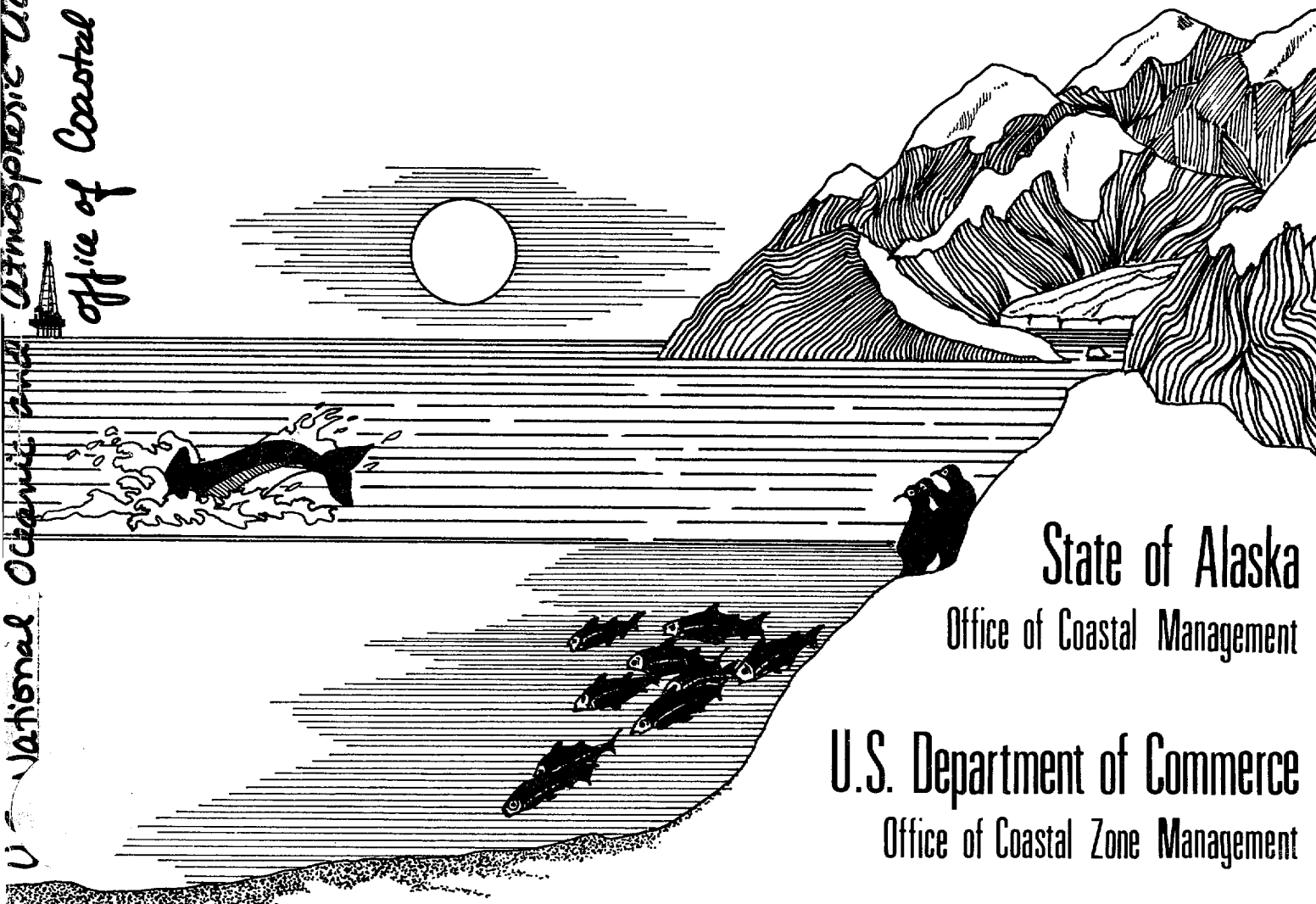


State of Alaska Coastal Management Program and Draft Environmental Impact Statement

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Office of Coastal Zone Management

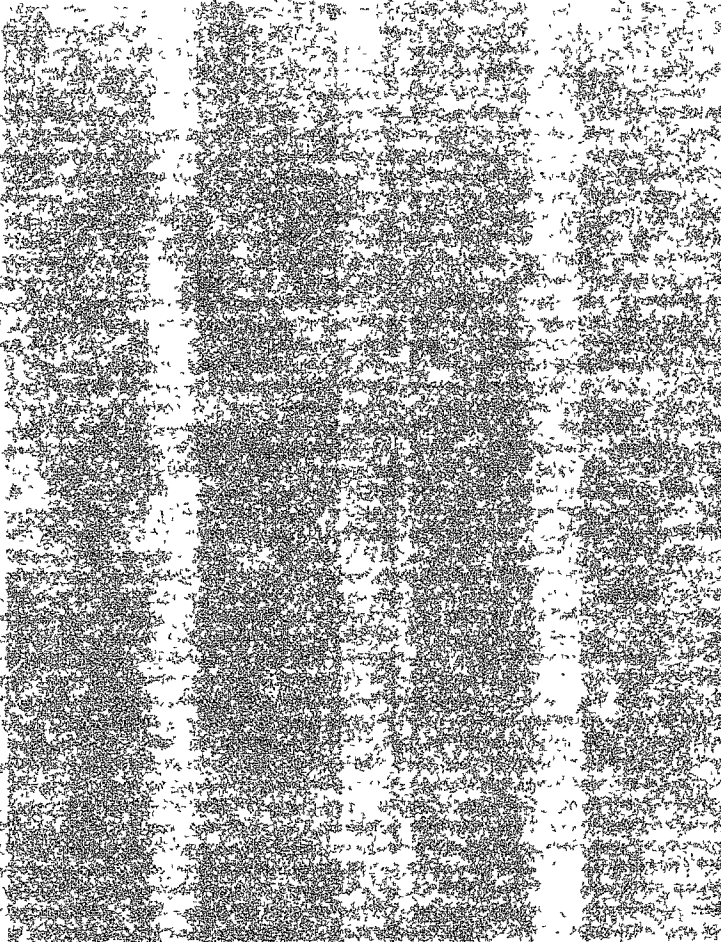


State of Alaska
Office of Coastal Management

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UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Science and Technology
Washington, D.C. 20230

In accordance with the provisions of Section 102(2)(C) of the National Environmental Policy Act of 1969, we are enclosing for your review and consideration the draft environmental impact statement prepared by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce, on the Proposed Alaska Coastal Management Program.


Any written comments you may have should be submitted in duplicate to the person listed below by

If you have any questions about the enclosed statement, please feel free to contact:

Pacific Regional Manager
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D. C. 20235
Telephone: 202/634-4125

Thank you for your cooperation in this matter.

Sincerely,


Sidney R. Galler
Deputy Assistant Secretary
for Environmental Affairs

Enclosures



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF COASTAL ZONE MANAGEMENT

MEMORANDUM

DATE: January 4, 1979

TO: Recipients of the Draft Environmental Impact
Statement Prepared on the Proposed Alaska
Coastal Management Program

FROM: for Robert R. Kifer, Chief *RKC*
NEPA Compliance Unit

SUBJECT: Public Hearing

You are invited to attend the public hearings to be held on the Draft Environmental Impact Statement prepared on the Proposed Alaska Coastal Management Program.

The views of interested persons and organizations will be solicited. These may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-serve basis, and may be limited to a maximum of 10 minutes, or as otherwise appropriate. Priority will be given to those with written statements.

Parties unable to attend the scheduled public hearings may be assured that written comments submitted to the Office of Coastal Zone Management will receive the same consideration as oral comments presented at the public hearings.

The hearing schedule is:

Tuesday, February 27, 1979
2:00 PM and 7:00 PM
Alaska Court & Office Building
Supreme Court Room A
Juneau, Alaska

Wednesday, February 28, 1979
2:00 PM and 7:00 PM
Anchorage Historical & Fine Arts Museum
121 West 7th Avenue
Anchorage, Alaska

United States Department of Commerce

Draft Environmental Impact Statement and
Proposed Coastal Management Program
for the State of Alaska

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Prepared by:

Office of Coastal Zone Management
National Oceanic and Atmospheric
Administration
Department of Commerce
3300 Whitehaven Street, N. W.
Washington, D. C. 20235

and

Office of Coastal Management
Division of Policy Development and
Planning
Office of the Governor
State of Alaska
Pouch AP
Juneau, Alaska 99811

TC224. A4 D71979

FEB 25 1980

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NOTE TO READERS

The National Environmental Policy Act of 1969 (NEPA) requires that an environmental impact statement be prepared as part of the review and approval process of major actions by Federal agencies which significantly affect the quality of the human environment. The action contemplated here is approval of the Alaska Coastal Management Program under Section 306 of the Federal Coastal Zone Management Act of 1972, as amended.

Approval qualifies Alaska for Federal matching funds for use in implementing and administering the coastal management program. In addition, the Coastal Zone Management Act stipulates that Federal activities affecting the coastal zone shall be consistent, to the maximum extent practicable, with the approved coastal management program.

It is the general policy of the Office of Coastal Zone Management (OCZM) to issue a combined draft environmental impact statement (DEIS) and coastal management program document. Part I of this DEIS was prepared by OCZM and includes a summary of Alaska's coastal management program. Part II of the DEIS is a detailed description of the state's program and was prepared by the Alaska Office of Coastal Management (OCM) as were the appendixes and attachments. Part II also fulfills, in part, the NEPA requirement for a description of the proposed action. Parts III through X address the remainder of the NEPA requirements for a DEIS and were prepared jointly by OCZM and OCM.

For purposes of reviewing the proposed action, the important Federal concerns are:

- whether the Alaska program is consistent with the objectives and policies of the national legislation,
- whether the award of Federal funds under Section 306 of the CZMA will help Alaska meet those objectives,
- whether the state's management authorities are adequate to implement the ACMP, and
- whether there will be a net environmental benefit as a result of program approval and implementation.

OCZM has made a preliminary assessment that the answers to these questions are affirmative. OCZM wants the widest possible circulation of this document to all interested agencies and parties in order to receive the fullest expression of opinion on these questions, and wishes to thank those participating in the review of the Alaska program and this draft environmental impact statement.

Summary

- ☒ Draft Environmental Impact Statement
☐ Final Environmental Impact Statement

Department of Commerce, National Oceanic and Atmospheric Administration,
Office of Coastal Zone Management. For additional information about
this proposed action or this statement, please contact:

Pacific Regional Manager
Office of Coastal Zone Management
National Oceanic and Atmospheric Administration
3300 Whitehaven Street, N. W.
Washington, D. C. 20235
Phone: 202/254-7100

Written comments should be forwarded to the Pacific Regional Manager at
the above address.

1. Type of Action

Proposed Federal approval of the Alaska Coastal Management Program

- ☒ Administrative ☐ Legislative

2. Brief Description of the Proposed Action

It is proposed that the Assistant Administrator for Coastal Zone Management approve the Coastal Management Program application of Alaska pursuant to P.L. 92-583. Approval would permit implementation of the proposed program, allow program administration grants to be awarded to the state, and require that federal actions be consistent with the program.

3. Summary of Environmental Impacts and Adverse Environmental Effects

Approval and implementation of the program will enhance governance of the state's coastal land and water areas and uses according to coastal policies and standards implemented by existing state and local authority. The effect of these policies and standards is to condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. This program will improve decision-making processes for determining appropriate coastal land and water uses in light of resource considerations and will increase predictability of public and private coastal decisions. The program will result in some short-term economic impacts on coastal users but will lead to increased long-term protection of and benefit from the state's coastal resources.

4. Alternatives Considered

All alternatives would involve a decision by the Assistant Administrator to delay or deny approval of the Alaska Coastal Zone Management Program. Delay or denial of program approval would be based on the following conditions:

1. If the state does not have all authorities necessary to implement the program, particularly the authorities necessary to:
 - (a) assure protection of wetlands; and
 - (b) assure that local land and water use regulations will not unreasonably exclude uses of regional benefit.
2. If the standards of the ACMP are not sufficiently specific.

5. Distribution

Comments have been requested from the following Federal, state and local agencies and other parties:

Federal Agencies

Advisory Council on Historic Preservation
Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health, Education & Welfare
Department of Housing & Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Environmental Protection Agency
Federal Energy Regulatory Commission
General Services Administration
Marine Mammal Commission
Nuclear Regulatory Commission
U.S. Coast Guard

National Interest Groups

A.M.E.R.I.C.A.N.
AFL-CIO
American Association of Port Authorities
American Bar Association
American Bureau of Shipping
American Farm Bureau Federation
American Fisheries Society
American Forest Institute
American Gas Association
American Hotel and Motel Association
American Industrial Development Council
American Institute of Architects
American Institute of Merchant Shipping
American Institute of Planners
American Littoral Society
American Mining Congress
American Oceanic Organization
American Petroleum Institute
American Shore and Beach Preservation Association
American Society of Civil Engineers
American Society of Landscape Architects, Inc.
American Society of Planning Officials
American Water Resources Association
American Waterways Operators
Amoco Production Company

Ashland Oil, Inc.
Associated General Contractors of America
Association of Oil Pipe Lines
Atlantic Richfield Company
Atlantic States Marine Fisheries Commission
Atomic Industrial Forum
Barrier Islands Coalition
Boating Industry Association
Center for Law and Social Policy
Center for Natural Areas
Center for Urban Affairs
Center for Urban & Regional Resources
Chamber of Commerce of the United States
Chevron U.S.A., Inc.
Cities Service Company
City Service Oil Company
Coastal States Organization
Conservation Foundation
Continental Oil Company
Council of State Governments
Council of State Planning Agencies
The Cousteau Society
Earth Metabolic Design Laboratories, Inc.
Edison Electric Institute
El Paso Natural Gas Co.
Environmental Policy Center
Environmental Defense Fund, Inc.
Environmental Law Institute
EXXON Company, U.S.A.
Friends of the Earth
Getty Oil Company
Great Lakes Basin Commission
Gulf Energy and Minerals, U.S.
Gulf Oil Company
Gulf Refining Company
Gulf South Atlantic Fisheries Development
Foundation
Independent Petroleum Association of America
Industrial Union of Marine & Shipbuilding
Workers of America
Institute for the Human Environment
Institute for Marine Studies
Interstate Natural Gas Association of America
Izaak Walton League
Lake Michigan Federation
League of Conservation Voters
League of Women Voters Education Fund
Marathon Oil Company
Marine Technology Society
Mobil Oil Corporation

Mobil Exploration & Producing, Inc.
Murphy Oil Company
National Academy of Engineering
National Association of Conservation Districts
National Association of Counties
National Association of Dredging Contractors
National Association of Electric Companies
National Association of Engine & Boat Manufacturers
National Association of Home Builders
National Association of Realtors
National Association of Regional Councils
National Association of State Boating Law
Administrators
National Association of State Park Directors
National Audubon Society
National Boating Federation
National Canners Association
National Coalition for Marine Conservation, Inc.
National Commission on Marine Policy
National Conference of State Legislatures
National Environmental Development Association
National Farmers Union
National Federation of Fisherman
National Fisheries Institute
National Forest Products Association
National Governors Association
National League of Cities
National Ocean Industries Association
National Parks and Conservation Association
National Petroleum Council
National Petroleum Refiners Association
National Realty Committee
National Recreation and Park Association
National Research Council
National Science Foundation
National Science Teachers Association
National Shrimp Congress
National Society of Professional Engineers
National Wildlife Federation
National Waterways Conference
Natural Gas Pipeline Company of America
Natural Resources Defense Council
The Nature Conservancy
Nautilus Press
New England River Basin Commission
North Atlantic Ports Association
Outboard Marine Corporation
Resources for the Future
Rice University Center for Community Design
and Development

Shell Oil Company
Shellfish Institute of North America
Shipbuilders Council of America
Sierra Club
Skelly Oil Company
Society of Industrial Realtors
Society of Real Estate Appraisers
Soil Conservation Society of America
Southern California Gas Company
Sport Fishing Institute
Standard Oil Company of Ohio
Sun Company, Inc.
Tenneco Oil Company
Texaco, Inc.
Texas A & M University
United Brotherhood of Carpenters & Joiners
of America
Union Oil Company of California
Urban Research and Development Association, Inc.
U.S. Conference of Mayors
U.S. Power Squadrons
Virginia Marine Resources Commission
Water Pollution Control Federation
Water Transport Association
Western Oil and Gas Association
Wildlife Management Institute
The Wildlife Society
World Dredging Association

State Distribution

Governor Hammond
Lt. Governor Miller
Members, Alaska State Legislature
Legislative Affairs Agency
State Clearinghouse
Federal/State Land Use Commission
International Fisheries & External Affairs
Alaska Historical Commission
Commercial Fisheries Entry Commission
Department of Administration
Department of Commerce & Economic Development
Department of Community & Regional Affairs
Department of Education
Department of Environmental Conservation
Department of Fish & Game
Department of Health & Social Services
Department of Labor
Department of Law
Department of Military Affairs
Department of Natural Resources
Department of Public Safety
Department of Revenue
Department of Transportation & Public Facilities
Division of Budget & Management
Division of Economic Enterprise
Division of Energy & Power Development
Division of Tourism
Alaska Pipeline Commission
Public Utilities Commission
Alaska State Housing Authority
Alaska Transportation Commission
Alaska Power Authority
Division of Community Planning
Division of Local Government Assistance
Division of Community & Rural Development
Division of Geological & Geophysical Surveys
Division of Land & Water Management
Division of Minerals & Energy Management
Division of Oil & Gas Conservation
Division of Parks
Division of Lands, Leasing, Right-of-Way & State Equipment
Division of Aviation Design & Construction
Division of General Design & Construction
Division of Harbor Design & Construction
Division of Marine Highways
University of Alaska, Arctic Environmental Information & Data Center
University of Alaska, Sea Grant Program

Local Distribution

Municipality of Anchorage
Bristol Bay Borough
Fairbanks North Star Borough
Haines Borough
City & Borough of Juneau
Kenai Peninsula Borough
Ketchikan Gateway Borough
Kodiak Island Borough
Matanuska-Susitna Borough
North Slope Borough
City & Borough of Sitka
City of Haines
City of Homer
City of Kenai
City of Seldovia
City of Seward
City of Soldotna
City of Ketchikan
City of Kodiak
City of Palmer
City of Barrow
City of Cordova
City of Petersburg
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City of Craig
City of Dillingham
City of Galena
City of Hoonah
City of Hydaburg
City of Kake
City of King Cove
City of Klawock
City of Nome
City of Pelican
City of St. Mary's
City of Skagway
City of Unalaska

City of Yakutat
City of Tenakee Springs
City of Kupreanof
City of Unalakleet
City of Bethel
Metlakatla, Federal Law City

Other Interested Parties

Alaska Coastal Policy Council
North Pacific Rim Corporation
Bristol Bay Native Association
Aleutian/Pribilof Island Assn.
Sealaska Corporation
NANA Regional Corporation, Inc.
Koniag Inc.
Bering Straits Native Corporation
Aleut Corporation
Cook Inlet Native Assn.
Mauneluk Association
Association of Village Council Presidents
Kodiak Area Native Assn.
Inupiat Community of the Arctic Slope
Cook Inlet Region, Inc.
Chugach Natives Inc.
Calista Corporation
Bristol Bay Native Corporation
Arctic Slope Regional Corporation
Tlingit & Haida Central Council
Kawerak Association
Nunam Kitluksisti
Moening-Grey Associates
Alaska Center for the Environment
Alaska Miners Association
Atlantic Richfield Company (Alaska)
Alaska State Chamber of Commerce
Alaska Rural Development Council
Alaska Lumber & Pulp Company
Martech International Inc.
Alaska Oil & Gas Association
Alaska Legal Services Corporation
EXXON Co., U.S.A. (Alaska)
United Fishermen of Alaska
Alaska Native Foundation
Alaska Federation of Natives
Trustees for Alaska
Alaska Municipal League
Alaska Loggers Association
Woodward-Clyde Consultants
U.S. Borax, Surveyor's Office (Alaska)
Kramer, Chin & Mayo, Inc.
Tongass Conservation Society
Union Oil Company (Alaska)
Sierra Club (Alaska)
Olaf Hellen
I.S.E.R.
A.R. Company (Alaska)

Other Interested Parties (Cont'd)

SOHIO BP Alaska
National Audubon Society (Alaska)
Marathon Oil Company (Alaska)
Pacific Rim Planners
League of Women Voters (Alaska)
Chuna McIntyre
David Katz, University of Pennsylvania
Robert Chen, Advanced Study Program, NCAR
Daniel Mandelker, Washington University (St. Louis)
Conner, Moore & Corber (Washington, D. C.)
Wildland Recreation Research (Seattle)
Jonathon Lyon
Steve Volker
Ralph Fenner
Dale Stirling
Dixie Baade
North Pacific Fishery Management Council
Kodiak Area Community Development Corp., Inc.
Robert E. Price
Marsha Erwin Bennett
SEACC
Alaska Conservation Society
Territorial Sportsmen
Alaska Wilderness Society
Alaska Association of Soil Conservation Sub-Districts

6. This Draft Environmental Impact Statement was transmitted to the Environmental Protection Agency, and the Notice of Availability to the public was published in the Federal Register on:

January 22, 1979

7. Note to Reviewers: The Appendixes will not be reprinted in the Final EIS unless they are changed as a result of this review. The Final EIS will be sent to all parties who comment on the DEIS, and to all other parties who request it.



Introduction



Part I

PART I: INTRODUCTION

The Federal Coastal Zone Management Act

In response to intense pressure, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act (P.L. 92-583) (CZMA) which was signed into law on October 27, 1972. The Act authorized a Federal grant-in-aid program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Coastal Zone Management (OCZM). The Coastal Zone Management Act of 1972 was substantially amended on July 26, 1976 (P.L. 94-370). The Act and the 1976 amendments affirm a national interest in the effective protection and development of the coastal zone by providing assistance and encouragement to coastal states to develop and implement rational programs for managing their coastal areas.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction to states for developing coastal management programs. These guidelines and requirements for program development and approval are contained in 15 CFR Part 923, as revised and published March 1, 1978, in the Federal Register. In summary, the requirements for program approval are that a state develop a management program that:

- (1) Identifies and evaluates those coastal resources recognized in the Act that require management or protection by the state;
- (2) Re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed;
- (3) Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas to be subject to management should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;
- (4) Identifies the inland and seaward areas subject to the management program;
- (5) Provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and

- (6) Includes sufficient legal authorities and organizational arrangements to implement the program and to insure conformance to it.

In arriving at these substantive aspects of the management program, states are obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, state, interstate and Federal agencies.

Section 305 of the CZMA authorizes a maximum of four annual grants to develop a coastal management program. So far, Alaska has received nearly \$4,700,000 in program development funds. After developing a management program, the state may submit it to the Secretary of Commerce for approval pursuant to Section 306 of the CZMA. If approved, the state is then eligible for annual grants under Section 306 to implement its management program. If a program has deficiencies which need to be remedied or has not received approval by the time Section 305 program development grants have expired, a state may be eligible for preliminary approval and additional funding under Section 305(d).

Section 307 of the Act stipulates that Federal agency actions shall be consistent, to the maximum extent practicable, with approved State management programs. Section 307 further provides for mediation by the Secretary of Commerce when a serious disagreement arises between a Federal agency and a coastal state with respect to a Federal consistency issue.

Section 308 of the CZMA contains several provisions for grants and loans to coastal states to enable them to plan for and respond to on-shore impacts resulting from coastal energy activities. To be eligible for assistance under Section 308, coastal states must be receiving Section 305 or 306 grants, or, in the Secretary's view, be developing a management program consistent with the policies and objectives contained in Section 303 of the CZMA. Section 308 has been important to Alaska. The state has received \$623,000 in planning funds, \$1,179,000 in grants and \$50,182,000 in loans for financing new or improved public facilities and public services, and \$663,000 in funds to help prevent, reduce or ameliorate unavoidable losses to valuable coastal environmental and recreational resources.

Summary of the Alaska Coastal Management Program

This section summarizes the coastal problems, issues and conflicts confronting Alaska, its coastal management program, and the differences the coastal management program will make. These topics are more fully discussed in subsequent parts of this document.

Alaska's interest in coastal management was spurred by coastal conservation and development pressures. In the midst of the national exploration and development of oil and gas on its continental shelf and elsewhere, the harvest of timber, fisheries expansion, the extraction of minerals and the increasing pace of development along its coast, certain coastal management problems emerged and required attention. These included limited waterfront space for development, the need to protect fish and wildlife habitats, the impacts of timber harvest, transportation, and mining, extensive coastal hazards, the impacts of western culture on Native culture, and the need to protect subsistence cultures which compete with other users for the resources.

The response to these pressures and problems is the Alaska Coastal Management Program. During the period of coastal program development, Alaska decided upon an approach, established a process, and fashioned rules which would respond to the needs of the state and the nation. A history of the coastal program development is provided in Attachment I and may be reviewed at this time. The program alternatives which the state considered are outlined in Attachment 2.

Alaska's coastal management program establishes new coastal policies, rules, responsibilities, obligations and relationships, but relies on existing state and local authorities and controls for implementation. The program is based on the Alaska Coastal Management Act of 1977 which established an approach of shared local and state coastal management responsibility. The Act requires coastal program development within a specified period by local government units or districts in organized areas, and in unorganized areas when these areas are faced with large-scale resource development. It also sets up relationships between the districts and state agencies, and provides basic objectives and policies for coastal management.

The Act establishes a Coastal Policy Council to direct the coastal management program and resolve conflicts during its implementation. The Council is responsible for reviewing and approving district coastal programs and developing specific standards and guidelines for managing coastal land and water areas and uses. District coastal programs and Council standards and guidelines require legislative approval.

The following coastal standards have been approved:

1. Standards and priorities for siting and approval of coastal uses, addressing coastal development, geophysical hazards, recreation, energy

facilities, transportation and utilities, fish and seafood processing, timber harvest and processing, mining and mineral processing and subsistence;

2. Resource and habitat standards, addressing air, land and water quality, historic, prehistoric and archaeological resources, and protection of coastal habitats including offshore areas, estuaries, wetlands and tideflats, rocky islands and seacliffs, barrier islands and lagoons, exposed high energy coasts, rivers, streams and lakes, and important upland habitat; and

3. Government process standards, addressing the consistency of state agency actions with all standards and with district coastal programs. Public participation and information, and program management and inter-government coordination are also addressed.

As a result of the continuing review of these standards required by the Act, the Council has approved a number of amendments to the standards. These amendments have not as yet been approved by the legislature.

Guidelines for the preparation, review and implementation of district coastal programs are also approved. These guidelines prescribe the general elements of district coastal management programs, addressing goals, organization, resource inventories and analyses, uses subject to management, proper and improper uses, policies, implementation methods, and public participation.

District coastal programs must follow these guidelines and be consistent with the standards. Until district programs are approved, state agencies will use police, proprietary and spending powers to implement the standards in all areas of the state. These powers control uses and areas which have a direct and significant impact on coastal waters. When district programs are approved, planning and management actions of state agencies must be consistent with the standards and applicable district programs; the actions of districts must be consistent with their coastal management programs.

The guidelines also prescribe the boundaries of the coastal zone. The boundary defines the area in which the guidelines and standards apply. The initial boundary, that is, the boundary before approval of district programs, includes zones of "direct interaction" and "direct influence" which are mapped. These zones define areas where physical and biological processes are a function of direct contact between land and sea, and areas closely affected and influenced by the close proximity between land and sea. The boundary excludes Federal lands, and extends seaward three miles to the limit of the territorial sea. The final boundary will be the same as the initial boundary, except where redefined in district programs. According to criteria in the guidelines, districts must make certain findings in order to redefine the initial boundary.

The guidelines also establish a "zone of indirect influence", a broad area which has a less definite relationship to coastal lands and waters

and which extends some distance landward and seaward of the other zones. While not included in the program's boundary, districts and state agencies may review actions in this zone for possible impacts on the coastal lands and waters included in the boundary.

Two additional provisions of the ACMP require heightened management attention to special coastal uses and areas which are defined in the Act. "Uses of state concern" are coastal land and water uses of greater than local concern which would significantly affect the public interest. They encompass uses of national, statewide and regional interest, and include navigation, transportation, communication, recreation, energy and industrial or commercial uses. Districts cannot arbitrarily or unreasonably restrict or exclude a use of state concern from their coastal areas.

The second statutory provision is "areas meriting special attention". These are to be designated by the Council and by districts, and provide for special management of geographic areas which warrant special attention because of their extraordinary values. As defined, they include special natural areas, hazard areas, and areas especially valuable for recreation, development, subsistence, sanctuaries, scientific research and other purposes. Council standards provide a process for identifying, recommending, designating and managing such areas.

State agencies are required to collaborate and assist districts in the development of their coastal programs. They are also required to commence comprehensive interagency planning for each coastal region. In response, teams of state agencies are identifying "uses of state concern" and "areas which merit special attention" within specific geographic areas of Alaska. These will be considered by districts along with other information provided by state agencies.

The Council has adopted internal guidelines for council operations, and for Federal agency consultation and coordination to further assure continuing consideration of national interests.

The responsibilities of state agencies in the coastal management program are further delineated in an administrative order. The order addresses state agency compliance with the program, consistency, and conflict resolution procedures and responsibilities. It also addresses the operation of Federal consistency.

The Division of Policy Development and Planning, as lead agency for the program, is responsible for reviewing the consistency of state and Federal actions with the ACMP. On petition, the Council may order any action considered necessary to implement, enforce or comply with the district coastal management program. Council orders are enforced in the state Superior Court. State agency actions inconsistent with the standards are subject to judicial review.

Alaska's coastal management program will make sweeping differences in the manner in which coastal lands and waters are managed. Most significant are:

1. It provides a common basis for coastal decisions which must be made with reference to policies and rules which govern all actions in the coastal area;
2. It substantially improves the protection of coastal land and water habitats;
3. It provides a capability to anticipate and manage impacts of large resource developments such as energy, timber, mining and commerce;
4. Its approach, local and state implementation of guidelines and standards, clearly defines the division of responsibility for management of coastal resources;
5. It establishes a process for resolving conflicts;
6. It provides a role for local units of governments in coastal decisions of local as well as statewide and national significance;
7. It provides better certainty about state and local desires to entrepreneurs concerned with locating development sites;
8. It forms districts in unorganized areas of the state when necessary to manage coastal resources and grants large measures of local control to unincorporated communities (villages);
9. It provides a special process for heightened and specific management attention to geographic areas with extraordinary coastal values; and
10. It guards against the unreasonable exclusion of coastal uses of statewide and national significance.

Federal approval of the program will make a difference. It will provide the funding and assistance necessary to fulfill the promises of the state's coastal management program. Specifically, it will allow development of district programs, organization of coastal resource service areas, designation and management of special management areas, location of sites for facilities such as those supporting continental shelf oil and gas development, identification of coastal hazards, enforcement of standards, and it will allow continued improvements in the state's capability to manage coastal lands and waters. Federal approval is also considered important in authorizing the state to require Federal consistency. Federal activities such as outer continental shelf leasing and regulation of fisheries are of considerable interest to, and have large impacts on, the state.

How the Alaska Coastal Management Program Meets the Requirements of the Coastal Zone Management Act:

<u>Requirements</u>	<u>Sections of Approval Regulations</u>	<u>Location</u>
Sec. 306(a) which includes the requirements of Sec. 305:		
305(b)(1): Boundaries.	923.31, 923.32	Ch.4
	923.33, 923.34	Ch.5
305(b)(2): Uses subject to management.	923.11, 923.12	
305(b)(3): Areas of particular concern	923.21, 923.23	Ch.4
305(b)(4): Means of control.	923.41	Ch.6
305(b)(5): Guidelines on priorities of uses.	923.22	Ch.2
305(b)(6): Organizational structure.	923.45	Ch.6
305(b)(7): Shorefront planning process	923.25	App.8
305(b)(8): Energy facility planning process.	923.14	App.7
305(b)(9): Erosion planning process.	923.26	App.9
Sec. 306(c) which includes:		
306(c)(1): Notice; full participation; consistent with Sec. 303	923.58, 923.51	Ch.8
	923.55, 923.3	Ch.2
306(c)(2)(A): Plan coordination.	923.56	Ch.8
306(c)(2)(B): Continuing consultation mechanisms	923.57	Ch.8&App.10
306(c)(3): Public hearings	923.58	Ch.8
306(c)(4): Gubernatorial review and approval	923.47	Gov. Letter
306(c)(5): Designation of recipient agency	923.46, 923.47	Gov. Letter
306(c)(6): Organization	923.45, 923.47	Ch.6
306(c)(7): Authorities	923.41, 923.47	Ch.6
306(c)(8): Adequate consideration of national interests	923.52	Ch.7 & 8
306(c)(9): Areas for preservation/restoration.	923.24	Ch.4
Sec. 306(d) which includes:		
306(d)(1): Administer regulations, control development; resolve conflicts.	923.41	Ch.6
306(d)(2): Powers of acquisition, if necessary	923.41	Ch.6
Sec. 306(e) which includes:		
306(e)(1): Technique of control.	923.41, 923.42	Ch.6
306(e)(2): Uses of regional benefit.	923.13, 923.41	Ch.7
	923.43	
Sec. 307 which includes:		
307(b): Adequate consideration of Federal agency views.	923.51	Ch.8
307(f): Incorporation of air and water quality requirements	923.44	Ch.2



Description of the Proposed Action

The Alaska Coastal Management Program



Part II



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 2, 1979

TO: Reviewers of This Document

And

Mr. Robert W. Knecht, Assistant
Administrator
Office of Coastal Zone Management
NOAA, U.S. Department of Commerce
3300 Whitehaven Street Northwest
Page Building One
Washington, D.C. 20235

Dear Mr. Knecht:

I am pleased to present the Draft Environmental Impact Statement for federal approval of the Alaska Coastal Management Program under the joint auspices of your office and the State of Alaska.

This document, while a draft, is our best representation of a program which we in Alaska believe meets and exceeds the requirements for state coastal programs under the Coastal Zone Management Act of 1972, as amended, and under regulations promulgated by OCZM under that Act.

Therefore, I request that you examine this document in concert with other reviewers in the NEPA process and grant approval to the Alaska Coastal Management Program under the terms of section 306 of the federal Coastal Zone Management Act. As we have agreed, a second publication of this document, in the form of a Final Environmental Impact Statement, will be published jointly by your office and the state a few months from now in order to accommodate any comments or concerns raised by reviewers of this draft. It is my hope that federal approval of Alaska's coastal program may then be granted following review of that next publication.

I have reviewed the Alaska Coastal Management Program as portrayed in this document, and, as Governor, herewith approve the Program and further certify to the following:

1. the state has the required authorities to implement the management program;

2. the state has established and is operating the necessary organizational structure to implement the program;
3. the Division of Policy Development and Planning is the single designated agency to receive and administer grants for implementing the program, and further, this Division is hereby designated the lead agency for implementation of the program;
4. the state, in concert with local governments, has the authority to control land and water uses, control development and to resolve conflicts among competing uses;
5. the state presently uses the methods listed in Section 306 (e)(1) of the federal Coastal Zone Management Act for controlling land and water uses in the coastal zone including: (a) the authority derived from the Alaska Coastal Management Act, and the Act's implementing guidelines and standards and local government coastal programs now being developed under that Act; (b) administrative review of local coastal programs by the Alaska Coastal Policy Council, provided for in the Alaska Coastal Management Act; and (c) direct state authorities for control of land and water uses including the state authority for control of air and water pollution;
6. the state has sufficient powers to acquire lands, should that become desirable or necessary under elements of the coastal program;
7. those state laws cited in the program have been passed by the legislature and enacted into law. Administrative regulations required to implement the laws have been formally adopted by the responsible state agencies and the Alaska Coastal Policy Council;
8. the state's air and water pollution control programs established pursuant to the Federal Water Pollution Control Act of 1972 and the Federal Clean Air Act, insofar as those programs pertain to the coastal zone, have been made a part of the state's coastal program. The regulations appurtenant to the air and water programs are incorporated into this program and are the water pollution and air pollution control requirements applicable to the state's coastal management program. Further, any additional requirements and amendments to air and water pollution control programs will also become part of the state's coastal management program; and,

Mr. Robert W. Knecht
Assistant Administrator
Page 3

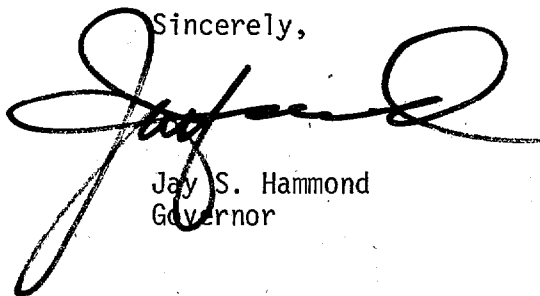
9. I further certify that the Alaska Coastal Management Program is now an official program of the State of Alaska, and the state, acting by and through its several instrumentalities, will strive to meet the intent of the federal Coastal Zone Management Act of 1972, as amended, and the state's corollary legislation; and to do so in a uniform, cooperative, and aggressive spirit.

We trust you will approve this program in an expeditious manner and we will gladly assist in whatever way we can during the review procedure.

We have been pleased to enjoy a cooperative working relationship with the Office of Coastal Zone Management throughout the development of this program. We look forward to the continuation of this relationship during the administration of the program.

Please contact Ms. Frances Ulmer, Director of the Division of Policy Development and Planning, if you have any questions or need any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay S. Hammond", with a large, stylized flourish extending from the bottom left.

Jay S. Hammond
Governor

Acknowledgements

The development of ACMP to this point is largely a credit to the sixteen members of the Alaska Coastal Policy Council and the Alaska legislature. The legislature provided the structure and authority for ACMP, and the Council filled in the policies and procedures with the ACMP Guidelines and Standards. The members and affiliations of the Council are:

LOCAL MEMBERS:

Roger Allington,
Northern Southeast,
Co-Chairman

Roger Fagerstrom,
Bering Straits

Donald Gilman,
Lower Cook Inlet

Eben Hopson,
Northwest

Malcolm "Pete" Isleib,
Prince William Sound

Stan Paukan,
Southwest

Robert Sanderson,
Southern Southeast

Lidia Selkregg,
Upper Cook Inlet

Betty Wallin,
Kodiak-Aleutians

STATE MEMBERS:

Frances Ulmer,
Director of Policy
Development & Planning
Co-Chairwoman

Bob Ward
Commissioner of
Transportation & Public
Facilities

Phillip Hubbard,
Commissioner of
Commerce & Economic
Development

Robert LeResche,
Commissioner of
Natural Resources

Lee McAnerney,
Commissioner of
Community & Regional Affairs

Ernst Mueller,
Commissioner of
Environmental Conservation

Ronald Skoog,
Commissioner of
Fish & Game

Acknowledgements

The Office of Coastal Management within the Division of Policy Development and Planning has been responsible for coordinating the development of ACMP, and bears the lead responsibility for the production of the document. The staff of OCM are:

Murray R. Walsh, Coordinator
Judith Anderegg
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Special thanks also to the federal Office of Coastal Zone Management, which, in addition to a great deal of work on this document, has also been very supportive of ACMP, and without which, this program could not have been developed.

In addition to the current OCM staff and contractors, a number of former employees of OCM deserve mention for their roles in the development of ACMP:

Former ACMP Coordinators:
Glenn Akins: Dec. 1975-Feb. 1978
F.F. Wright: Mar. 1975-Dec. 1975
M. Nayudu: July 1974-Jan. 1975

Former Employees:
Howard Goldman
Rick Sinnott
Rob Ridgway
Betsy Hasdorf
Connie Barlow
Alison Horton

Additional thanks must go to the other state and federal agencies which helped with the review of drafts of this document and who helped develop ACMP.

Acknowledgements

OCZM staff related to ACMP:

Robert W. Knecht, Assistant
Administrator
William Matuszeski, Chief of
State Programs
Peter Coffey
Bill Brah
Pat Travers
Carol Sondheimer

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to Alaska's needs.

OCM also thanks the hundreds of Alaskans who gave their time and effort
to help develop the program at the many hearings and public workshops
that were held.

Chapter 1: Introduction

Section(a): Issues and Problems

This document describes the Alaska Coastal Management Program (ACMP) which is designed to provide for the management of the 47,000 miles of Alaska's coastline (McRoy and Goeing, 1974). This document will describe the events which led to the passage of the Alaska Coastal Management Act of 1977 and what has taken place since.

The State of Alaska has immense coastal resources. The length of its coastline, measured either on the tideline (47,000 miles) or measured around an average perimeter that parallels the mainland limits of the Territorial Sea (6,000 miles), is equal to that of the entire continental United States. Alaska's coast has national and international significance for its vast, healthy ecosystems and as a generous source of renewable and non-renewable resources, especially potential energy resources. Three-quarters of Alaska's people live on or near the coast. Many earn their living from direct use of coastal resources and many more from indirect uses, such as Alaska's growing tourist industry. The Native peoples of Alaska -- Indian, Eskimo, and Aleut -- maintain a cultural and economic intimacy with the coast that dates back thousands of years.

Increasing demands for coastal resources, and the increasing knowledge of the impacts that one activity may have upon another, led to the Alaska Coastal Management Act of 1977. In passing the Act, the Alaska Legislature made these findings about the state's coast:

- (1) The coastal area of the state is a distinct and valuable natural resource of concern to all the people of the state;*
- (2) the demands upon the resources of the coastal area are significant and will increase in the future;*
- (3) the protection of the natural and scenic resources and the fostering of wise development of the coastal area are of concern to present and future citizens of the state;*

Chapter 1: Introduction

(4) *the capacity of the coastal area to withstand the demands upon it is limited;*

(5) *the degree of planning and resource allocation which has occurred in the coastal area has often been motivated by short-term considerations, unrelated to sound planning principles, and*

(6) *in order to promote the public health and welfare, there is a critical need to engage in comprehensive land and water use planning in coastal areas and to establish the means by which a planning process and management program involving the several governments and areas of the unorganized borough having an interest in the coastal area may be effectively implemented.*

A more detailed description of the coastal-related problems in Alaska can be found in Part IV of this document.

Briefly, several of the problems which led the legislature to make these findings and which gave rise to ACMP were:

1. Waterfront Space Scarcity. Despite Alaska's vast coastline, only limited area is available for commercial and industrial use. Much of the coastline is uninhabited, with no overland linkage to other areas. This, combined with adverse topographic and geologic hazard conditions, eliminates most of the 47,000 miles of coast from consideration for ports, harbors and other shoreline development. Such developments also usually need to be near the markets and populations they intend to serve. This results in competition among users for the limited sites which meet the market, physical and transportation requirements of commerce and industry.

2. Energy Resource Development Impacts. Alaska is known to have substantial coal and petroleum resources, and has already had to contend with the impacts of their extraction. Additional fossil energy resources are expected to exist here along with other non-fossil energy resources, such as uranium. Enormous effort is needed to find and extract these resources in Alaska's often hostile environment, and impacts on that environment are bound to result. Impacts are frequently increased by the special measures needed for operations in Alaska. Projecting and coping with these impacts is an important public responsibility.

Chapter 1: Introduction

3. Maintaining the Fishery. While Alaska's fishing industry is regulated by state and federal authorities, problems remain of assuring continued protection of the habitat necessary to support this industry. This requires management of land and water areas, rather than of species. Except for special areas, designated under state and federal laws, like critical habitat areas, land use management is beyond the scope of wildlife management agencies, and must be carried out by other agencies in coordination with wildlife management requirements.

4. Managing the Forest Resource. Several areas of the state have significant timber resources of commercial value. Harvesting this resource and providing for the continuation of it is the focus of a comprehensive state program, but the broader impacts of silviculture on other coastal values are also of particular concern to Alaskans.

5. Transportation Needs and Impacts. Because of its size and Alaska has a considerable transportation problem. The lack of widespread transportation facilities has important consequences for other aspects of the state's economy. Provision of transportation is the goal of several state programs, but the possibly heavy impact of transportation facilities on other coastal values is a source of concern to many Alaskans.

6. Impacts of Mining. As with other coastal activities, mining have and has had adverse impacts on other coastal values. Yet, Alaska's economic future, and national energy needs, may require new and continued mining.

7. Impacts of Western Culture on Native Cultures. Alaska has inhabited by Native cultures for thousands of years. These cultures have now been touched by western civilization. The native cultures will continue to be affected, and will undoubtedly change as a result, but controlling that change and minimizing the adverse impacts that may result are important coastal issues.

8. Providing for the Alaskan Subsistence Lifestyle. The subsistence lifestyle, or "living off the land," is a unique cultural aspect of Alaska. Practiced by Natives and non-Natives alike, subsistence competes with other uses of coastal resources. Protecting substances is one of the most important coastal issues.

Chapter 1: Introduction

9. Geological Hazards. Alaska has many coastal and inland areas with geologic conditions that may pose hazards to ill-planned development. The catastrophic 1964 earthquake is a recent example of unstable geologic conditions found in many parts of the state. With adequate knowledge and planning, development may still occur in hazard areas, but it is an important public responsibility to assure that such development is safe.

These are the types of problems which ACMP is intended to address. In many cases, the solution to one coastal problem will have impacts on other coastal values. This, in itself, requires a program which looks at all of the coastal problems and involves all of the coastal interests, both governmental and private, in finding and implementing the solutions.

Section (b): The ACMP Approach

When the legislature addressed these coastal problems, it selected a comprehensive management program as the general solution and set forth basic program policy in Section 2 of the Alaska Coastal Management Act:

- (1) preserve, protect, develop, use, and where necessary, restore or enhance the coastal resources of the state for this and succeeding generations;*
- (2) encourage coordinated planning and decision making in the coastal area among levels of government and citizens engaging in or affected by activities involving the coastal resources of the state;*
- (3) develop a management program which sets out policies, objectives, standards and procedures to guide and resolve conflicts among public and private activities involving the use of resources which have a direct and significant impact upon the coastal land and water of the state;*

Chapter 1: Introduction

(4) assure the participation of the public, local governments, and agencies of the state and federal governments in the development and implementation of a coastal management program;

(5) utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve the policies set out in this section; and

(6) authorize and require state agencies to carry out their planning duties, powers and responsibilities and take actions authorized by law with respect to programs affecting the use of the resources of the coastal area in accordance with the policies set out in this section and the guidelines and standards adopted by the Alaska Coastal Policy Council under AS 46.40.

General plans which govern the use of coastal and water areas, and which determine and satisfy the diverse array of coastal needs, were seen as the best overall approach. The legislature determined that a focused application of local government planning and police powers would yield the most detailed and reliable solution. Local governments, aside from being closest to coastal problems, are also most familiar with local conditions and have the traditional political right and responsibility to govern general land use. Alaska is little different from other states in this respect.

With this in mind, the legislature called on local governments to prepare programs to govern the use of coastal resources in their areas. At the same time, a state level element was established by the formation of the Alaska Coastal Policy Council. The Council, made up of state agency and local government officials, provides overall leadership for the program and establishes the basic guidelines and standards to be used by the local governments in the development of their coastal programs and by state agencies in making coastal decisions.

Chapter 1: Introduction

The Council's first task, begun in the fall of 1977, was to develop the ACMP Guidelines and Standards. These were completed in the spring of 1978, and are now in effect. Local governments are now developing their coastal programs in accordance with the guidelines and state agencies are conforming their coastal decisions to the standards.

The result will be a state-local partnership for the management of Alaska coastal lands and waters. At the local level will be the responsibility for development and implementation of local coastal programs. Because of their complexity, the local programs will take sometime to develop. Areas not presently having local governments may not have local programs for some time. In the absence of local programs, the ACMP will rely on the combined management powers of the state and federal agencies. These powers, already in existence under other laws, will be exercised in a coordinated fashion which is consistent with the ACMP Standards.

As of this writing, coastal management in Alaska is handled primarily by the exercise of state powers in conformity with the ACMP Guidelines. Over the next several years, the local government programs will come into force and the management system, as conceived by the legislature, will be in place.

Section(c): Relationship to the Federal Coastal Zone Management Program

There has been coordinated state level coastal management activity in Alaska since 1974 when the state received the first of several grants from the federal government under the Coastal Zone Management Act of 1972, as amended (CZMA). In that Act, Congress declared that the states should develop their own coastal programs and provided funding for the development, implementation and administration of these programs.

The CZMA set several standards which state programs must meet before they can move from development funding into the more substantial administrative funding. Achieving the status of administrative funding is called "306 approval" after the section of CZMA which sets the requirements which a state program must meet. Gaining 306 approval is an

Chapter 1: Introduction

administrative goal of ACMP and is part of the purpose of this document. Additional funding is provided to implement approved programs. This funding is twice to three times the amount provided for program development.

There is another and more important advantage to achieving 306 approval. After 306 approval federal agency decisions which affect the coast of the state must be consistent with the state's management program "to the maximum extent practicable," in the words of the CZMA.

Federal regulations describe the extent to which federal agencies will have to act consistent with a state's coastal program (after that program has been approved). The effect of this is that where a federal agency is contemplating an action which will have impact on a state's coastal resources, and where that impact is not confined to land or water controlled solely by the federal government, and where the federal agency can reasonably be expected to conform that action to the state's coastal program, then it must do so.

States with CZM programs then have a concomitant obligation to define the national interest in the management of their coastal resources. Approaches used in program development and techniques available during implementation in order to consider national interests are discussed in later chapters of this document.

With passage of the Alaska Coastal Management Act and approval of the ACMP Guidelines and Standards, we believe that ACMP is ready for approval under the terms of section 306 of the CZMA. In this document we have assembled the evidence supporting our contention that ACMP does indeed meet the requirements of the CZMA.

This point in the development of ACMP comes four years after program development began. Progress has been slow and not always smooth, but the program now has become an effective resource management tool for all levels of government in Alaska.

Chapter 1: Introduction

Section (d): The Next Eight Chapters

The next eight chapters, plus the appended material will provide the reader with a clear understanding of the Alaska Coastal Management Program.

Chapter 2 - sets out the basic objectives and standards of the program and discusses how these will be used.

3 - describes the local program development process, along with the state and federal role in that process.

4 - defines the areas which are subject to ACMP. This includes discussion of the boundaries of Alaska's coastal zone, special management areas and other geographic aspects of the program.

5 - discusses the uses which are subject to the program, responding to the CZMA requirement that state coastal programs control land and water uses having direct and significant impacts on coastal waters and demonstrating the extent of ACMP authority and how it will be applied.

6 - is a discussion of the ACMP management system for land and water uses, concentrating on the state portion of the management system, as it is the most complex. Local management and federal consistency procedures are also described.

Chapter 1: Introduction

6 - shows how the Alaska Coastal law intended to provide special recognition of, and protection for, state and national concerns.

7 - is a discussion of participation and coordination in the development of the program. This is largely a historical discussion to show who was involved in ACMP development and what they said was needed in the program.

8 - is a general look at the future of the program.

Chapter 2: Policies, Objectives and Standards of the Program

Section (a): General

The following discussion of the guiding policies, objectives and standards of ACMP is divided into four sections. The first contains the legislative provisions which guide the program; second are the general regulatory provisions; third are use-specific provisions; and fourth, the resource-specific provisions. All three are found in "6 AAC chapter 80," which is attached in its entirety in Appendix 3. "6 AAC chapter 85" found in the same appendix, is presented and discussed in the next chapter which discusses local government coastal programs.

The material in this chapter constitutes the "policy base" for ACMP and will:

- (1) be used to measure consistency of local programs with ACMP;
- (2) provide minimum standards for actions taken by state agencies which would affect the coast, and
- (3) after 306 approval, be used to measure consistency of federal actions which might affect the coast.

This policy base will grow with the approval and addition of local coastal programs, and state and federal actions will have to be consistent with local policies and regulations as these become a part of ACMP. The local rules will, of course, apply only in the area of jurisdiction of local government, but there they will carry the force of state law.

Section (b): Statutes

The Alaska Coastal Management Act contains a policy section and objective section. The policy section was set forth in Chapter 1 to explain the approach of ACMP, but is reprinted here as reference for the substantive aspects of the section.

Section 2. LEGISLATIVE POLICY. It is the policy of the state to:

Chapter 2: Policies, Objectives and Standards of the Program

- (1) *preserve, protect, develop, use, and, where necessary restore or enhance the coastal resources of the state for this and succeeding generations;*
- (2) *encourage coordinated planning and decision making in the coastal area among levels of government and citizens engaging in or affected by activities involving the use of resources which have a direct and significant impact upon the coastal land and water of the state;*
- (3) *develop a management program which sets out policies, objectives, standards and procedures to guide and resolve conflicts among public and private activities involving the use of resources which have direct and significant impact upon the coastal land and water of the state;*
- (4) *assure the participation of the public, local governments, agencies of the state and federal governments in the development and implementation of a coastal management program;*
- (5) *utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve the policies set out in this section; and*
- (6) *authorize and require state agencies to carry out their planning duties, powers and responsibilities and take actions authorized by law with respect to programs affecting the use of the resources of the coastal area in accordance with the policies set out in this section and the guidelines and standards adopted by the Alaska Coastal Policy Council under AS 46.40.*

To further set forth the desired end result of ACMP and to give additional guidance to program participants, the legislature included the following set of objectives:

Section 40.40.020. OBJECTIVES. The Alaska Coastal Management Program shall be consistent with the following objectives:

- (1) *the use, management, restoration and enhancement of the overall quality of the coastal environment;*

Chapter 2: Policies, Objectives and Standards of the Program

(2) the development of industrial or commercial enterprises which are consistent with the social, cultural, historic, economic and environmental interests of the people of the state;

(3) the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;

(4) the management of coastal land and water uses in such a manner that, generally, those uses which are economically or physically dependent on a coastal location are given higher priority when compared to uses which do not economically or physically require a coastal location;

(5) the protection and management of significant historic, cultural, natural and aesthetic values and natural systems or processes within the coastal area;

(6) the prevention of damage to or degradation of land and water reserved for their natural values as a result of inconsistent land or water usages adjacent to that land

(7) the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs; and

(8) the full and fair evaluation of all demands on the land and water in the coastal area.

Section (c): General Regulations

This section presents three sections of the ACMP regulations which deal with the structure and conduct of the program. In addition, the internal guidelines of the Coastal Policy Council are presented as further guidance for the conduct of the program.

6 AAC 80.010. COVERAGE OF CHAPTER. (a) This chapter contains standards for the use of an application by districts

Chapter 2: Probable Impacts of the Proposed Action on the Environment

and state agencies in carrying out their responsibilities under the Alaska Coastal Management Act (AS 46.40, and AS 44.19. 891-894.)

(b) Nothing in this chapter or in any district program displaces or diminishes the authority of any state agency or local government with respect to resources in the coastal area. Uses and activities conducted by state agencies in the coastal area must be consistent with the applicable district program and the standards contained in this chapter.

(c) At a minimum, the Council will review this chapter annually.

6 AAC 80.020. PUBLIC PARTICIPATION AND INFORMATION. (a) The Council will provide adequate, effective, and continuing opportunities for public participation from the beginning of the Alaska Coastal Management Program. The Council will give notice of when and where opportunities for public participation will be provided before adoption of guidelines and standards, review and approval of district programs and amendments to district programs, and amendments to the Alaska Coastal Management Program.

(b) The Council will not approve a district program or significant amendment of a district program unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The Council will make available to the public information and educational materials concerning coastal management, in understandable form, including:

- (1) a guide for the development of district programs;
- (2) maps and narratives describing physical and biological characteristics to be used in establishing boundaries of coastal areas;
- (3) areas recommended for council designation as areas which merit special attention;

Chapter 2: Policies, Objectives and Standards of the Program

- (4) maps showing the distribution and abundance of coastal fish and wildlife species with commercial, recreational, subsistence, or general ecological importance;
- (5) an identification of major data and information sources concerning coastal management;
- (6) a summary of information regarding coastal regions;
- (7) summaries of public hearings and workshops;
- (8) films and slide programs;
- (9) written material summarizing or explaining the Alaska Coastal Management Program; and
- (10) the Council's annual report to the legislature.

(d) At public meetings concerning the Alaska Coastal Management Program, the Council will insure that, when requested and reasonably necessary, translation into the appropriate Native language is provided.

6 AAC 80.030. PROGRAM MANAGEMENT AND COORDINATION. (a) The Office of Coastal Management is the designated lead agency for the Alaska Coastal Management Program. The Office of Coastal Management shall:

- (1) present the staff position regarding matters before the Council;
- (2) coordinate the activities of state agencies participating in the Alaska Coastal Management Program; and
- (3) review state and federal actions for consistency with the Alaska Coastal Management Program subject to Council review.

(b) The Council will initiate an interagency program of comprehensive resource management for each geographic region listed in AS 44.19.891 (a) (1). Regional programs will:

Chapter 2: Policies , Objectives and Standards of the Program

(1) assist the Council and districts in identifying uses of state concern and developing management policies for these uses;

(2) provide resource, social, and economic information on a coordinated regional basis; and

(3) assist the Council and districts in identifying, avoiding, or minimizing existing or potential conflicts.

(c) Plans and recommendations developed as part of the regional program described in (b) of this section must be transmitted to the district through the Office of Coastal Management. District planning efforts must demonstrate review and consideration of these plans and recommendations. If the final district program proposed does not agree with the regional program plans and recommendations, the differences will be resolved by the Council.

(d) The Council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency programs.

The Manual of Standards is still under production as of the time of circulation of this DEIS, but it will be available for examination near the end of the DEIS review period and may be obtained during review of the DEIS for ACMP approval. The manual once completed, will be adopted by the Council by resolution, and thus constitute additional guidance to ACMP participants. The greater part of the manual will deal with existing state and federal rules and regulations governing coastal land and water uses. There will be some discussion of recommended standards as well, even though they are not binding since they have not been adopted by law or regulations. The purpose of the manual is not so much to provide new guidance as it is to focus and organize the existing body of law and regulation which applies to coastal resources. Among the regulations cited in the manual will be the Council's own ACMP standards. The manual is aimed at coastal decision-makers within and without all levels of government. The users will be those who plan coastal land and water uses, and those who both seek and give permits for land and water uses.

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The manual will consist of several dozen "cells," each several pages in length. Each cell will relate a single land or water use with a single coastal value or consideration. Housing, industry, forestry, and energy facilities are examples of land and water uses. Habitat, geological hazards, and air and water quality are examples of coastal values or considerations. A matrix is provided in the manual which aligns all of the coastal land and water use categories along one side, and aligns all of the coastal value and consideration categories along the other side. The resultant cells or pairs of use/value or use/consideration are then the subjects of about 200 individual cell discussions.

Each cell discussion contains a number of items that will be of use to the coastal decision-maker. There is a general discussion of the problems and benefits one may encounter when confronted with the use/value situation at hand. Then follows a listing of all the state and federal regulations and laws which will pertain to the situation, including relevant ACMP standards. This inventory of laws and regulations comes with citations and notes as to responsible agencies and other information of use to the decision-maker. Finally, if the preparers of the manual noted a gap or unclear area in the existing array of law, they have provided recommended standards for the coastal decision-maker to use.

Obviously the manual will be a large document, and many of the laws and regulations will be repeated again and again since they will apply to many of the cells. The intent however, is to enable the coastal decision-maker to first determine which cell he is confronted with, (descriptive material on each of the uses and coastal considerations is provided) and then go to one location in the manual to learn about all the rules that apply to that situation.

Production of the manual is being carried out largely by the departments of Fish and Game and Natural Resources under contract to ACMP.

In order to clarify certain procedural aspects of its duties, the Council has adopted internal guidelines dealing with Council operations and federal agency consultation and coordination.

These internal guidelines provide as follows:

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Council Operation

- (1) If a public member of the Council ceases to be a mayor, member of the assembly or council of a municipality, the Council shall recommend to the Governor the removal of that member from the Council and the declaration of a vacancy. Public members whose removal is recommended under this guideline shall serve until a replacement is appointed.
- (2) Public members appointed to fill vacancies may be reappointed.
- (3) The names of permanent alternates selected by members of the Council shall be submitted in writing to the Council.
- (4) Per diem and travel for Council members and their alternates shall be provided from the Alaska Coastal Management Program.
- (5) The Council shall receive financial support from the Alaska Coastal Management Program budget and from such other sources as become available.
- (6) The Coordinator of the Office of Coastal Management shall be responsible for and have charge of Council records.
- (7) Additional staff support to the Council shall be available from the commissioner of the Department of Community and Regional Affairs as prescribed in the Alaska Coastal Management Act.
- (8) All meetings of the Council, except for executive sessions conducted solely for personnel matters, shall be open to the public and the press. Public meetings shall be electronically recorded, where possible, and the record shall be made available to any interested party.
- (9) Minutes of all public meetings of the Council shall be kept. All relevant areas of business and decisions of the Council shall be recorded in the minutes. Minutes shall be made available through the Office of Coastal Management.
- (10) The Coordinator of the Office of Coastal Management shall present the official staff position regarding matters appearing

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before the Council. Each Council member or participant in the Alaska Coastal management program may, at the discretion of the Council, present his or her position on such matters to the Council.

(11) Each public member of the Council shall, to the extent practicable keep the public within the region that member represents fully informed of all relevant matters concerning the Alaska Coastal Policy Council and Alaska Coastal Management Program.

Federal Agency Consultation and Coordination

(1) All participants in the Alaska Coastal Management Program, including coastal resource districts, state agencies, the Council, and Council staff, shall provide opportunities for federal agencies to participate in the Alaska Coastal Management Program, including furnishing timely notice of relevant action to federal agencies and solicitation of federal agencies comment, review, and contribution, where appropriate.

(2) The Council and its staff shall provide information concerning relevant federal agencies and programs to participants in the Alaska Coastal Management Program generally and as requested.

(3) The Council may, in its discretion, mediate or otherwise seek to resolve conflicts between federal agencies and participants in the Alaska Coastal Management Program.

(4) The Office of Coastal Management shall be the single designated state agency for all purposes of sections 305, 306, and 307 of the federal Coastal Zone Management Act.

(5) The Council shall establish procedures for the implementation of the federal consistency requirements of the federal Coastal Zone Management Act.

As will be discussed below, the Council has also passed a number of resolutions having procedural and interpretive importance. Some of these are presented in Appendix 1.

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Section (d): Land and Water Use and Activity

Section 305 (b) (2) of the Coastal Zone Management Act of 1972 requires the management program for each state to include:

A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

The Alaska Coastal Management Act of 1977 delegates the task of meeting this requirement to the Alaska Coastal Policy Council:

Section 46.40.040. DUTIES OF THE ALASKA COASTAL POLICY COUNCIL. Through the public hearing process and the recording of the minutes of the hearings, the Alaska Coastal Policy Council shall:

(1) *by regulation, adopt under the provisions of the Administrative Procedure Act (AS 44.62), within six months of the effective date of this Act, for the use of and application by coastal resource districts and state agencies for carrying out their responsibilities under this chapter, guidelines and standards for:*

(A) *identifying the boundaries of the coastal area subject to the district coastal management program;*

(B) *determining the land and water uses and activities subject to the district coastal management program;*

(C) *developing policies applicable to the land and water uses subject to the district coastal management program;*

(D) *developing regulations applicable to the land and water uses subject to the district coastal management program;*

(E) *developing policies and procedures to determine whether specified proposals for the land and water*

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uses or activities subject to the district coastal management program shall be allowed;

(F) designating and developing policies for the use of areas of the coast which merit special attention; and

(G) measuring the progress of a coastal resource district in meeting its responsibilities under this chapter.

(2) develop and maintain a program of technical and financial assistance to aid coastal resource districts in the development and implementation of district coastal management programs;

(3) undertake review and approval of district coastal management programs in accordance with this chapter;

(4) initiate a process for identifying and managing uses of state concern within specific areas of the coast;

(5) develop procedures or guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting the coastal area of the state.

In its standards, the Council has identified ten major uses or activities and for each has promulgated a standard. These standards have the force and effect of law. Both the districts and state agencies are bound by them. These uses and activities are:

1. coastal development;
2. geophysical hazards (development in such areas);
3. recreation;
4. historic, prehistoric, and archaeological resources;
5. energy facilities; (see Appendix 7)

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6. transportation and utilities;
7. fish and seafood processing;
8. timber harvest and processing;
9. mining and mineral processing; and
10. subsistence.

Coastal resource districts are required to plan for these listed uses and activities in a manner consistent with the standards promulgated by the Council. The Council will review district coastal management programs to assure that the standards are met.

State agencies are also required to conduct all of their activities in the coastal zone in a manner consistent with the standards of the Council. The Division of Policy Development and Planning/Office of Coastal Management will review state agency actions for consistency with the Council standards.

After ACMP receives 306 approval, the actions of federal agencies will also be reviewed for consistency by DPDP/OCM.

These standards are minimum standards for local program development and are also the operational standards for ACMP until more detailed standards become available through the approval of district programs. Chapter 6 describing the ACMP Management System, shows how the standards will be implemented at the state level, as well as how local standards will be followed at the state level.

Chapter 6 also describes the system that will be used to implement the standards, but does not go into detail on the individual standards themselves. The remainder of this section will present the use standards, discussing the purposes and characteristics of each.

To use these standards as well as the resource standards set forth in the next section, one must first determine the characteristics of the use proposed, and then determine which standards apply to the pending decision. For example, a large energy development might easily be subject to nearly all of the standards if subsidiary uses were to be part of the development. Such an energy development would probably

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involve mining, transportation facilities, and waterfront development; impact recreational areas; impact on habitats, and even require the removal of trees.

In making a decision on a proposed use or activity, or in considering a local government coastal program, all of the standards and statutory provisions that might apply must be considered. This requires a comprehensive viewpoint on the part of the decision-maker, as well as considerable technical knowledge. The local government involved should be part of the consideration process and able to present its views. State and federal agencies having expertise in one or another area of the standards should also be consulted.

At its meeting of December 14-15, 1978, the Council adopted a number of proposed changes to the guidelines and standards. These amendments will not become effective until they have been approved by the legislature. In the following discussion, each standard will be set forth in its entirety, and followed by a short discussion of its purposes and characteristics. Proposed additions to the present language of the standards will be enclosed in parentheses. Language proposed for deletion will be underlined.

Standard

6 AAC 80.040. COASTAL DEVELOPMENT. (a) *In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to:*

- (1) *Water-dependent uses and activities;*
- (2) *Water-related uses and activities; and*
- (3) *Uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.*

(b) *The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with (the standards contained in) Parts 320-323, Title 33, Code of Federal Regulations, (Vol. 42 of the Federal Register, pp. 37133-47) (July 19, 1977).*

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Comment

Rather than being specific to a use, this standard addresses the problems of limited waterfront space and the effects of dredging and filling. Subsection (a) establishes priorities for the limited amount of waterfront space. The standard can be applied to specific use proposals by determining whether a proposed use is water-related or water-dependent and whether a reasonable inland alternative exists. The district programs are expected to contain waterfront use limitations, in the form of zoning or other land use control devices, which respond to this standard.

It is possible that the topography of some local districts may preclude development of any kind of upland areas, making the shoreline the only usable area. Southeast Alaska may have a few examples of this situation, due to much steep topography.

"Water-dependent" is defined in the guidelines and standards (6 AAC 80.900) as "...a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body." "Water-related" is defined in the same place as "...a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered." These terms apply to development all along the state's coastline. Thus the requirements of the coastal development standard would preclude the siting of public or commercial facilities such as schools, hospitals, automotive-related facilities, and water independent industry adjacent to the water. The services provided to the maritime elements of the state's population may give an element of water-relatedness to otherwise water-independent activities. Examples of this situation might be port stores, laundromats, and similar facilities designed to serve water-going customers, and which must be located within easy walking distance of the docks to serve their intended functions and patrons.

The reference to the Corps of Engineers' regulations is a recognition of standards which have already been developed and put into use. Their incorporation into ACMP results in extending the applicability of the Corps standards to state and local coastal decision-making. The

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Corps of Engineers' regulations contain a considerable amount of guidance for assessing the environmental impacts of proposals and for balancing competing national interests in a decision. This incorporation will give greater utility to the Corps of Engineers' regulations and expand the use and consideration of them in dredge and fill operations. The Council may, in the future, adopt different or additional dredge and fill standards, as may the districts. The proposed amendment would make it clear that it is the substantive standards of the Corps regulations that are referred to, and not the procedural and administrative provisions that also appear in those regulations. These standards require a general balancing process taking account of public need, alternatives, cumulative effects, and effects on wetlands, fish and wildlife, water quality, scenic and recreational values, public safety, water dependence, and access to coastal waters. Specific standards, criteria, and policies are prescribed for the placing of structures and the discharge of dredged or fill material.

Standard

6 AAC 80.050. GEOPHYSICAL HAZARD AREAS. *(a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.*

(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.

Comment

This standard is also specific to a problem rather than a use. Alaska has a wide variety of geophysical hazards, and while many are known, their extent and exact location are not. The standard requires study by the state and local governments to identify hazard areas, but limits the mandatory scope of such studies to areas where development is likely, or where there is a suspected hazard.

6 AAC 80.900 (9) currently provides:

" 'geophysical hazards' includes potential flooding,

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*tsunami run-ups, landslides, snowslides, severe faults,
and ice hazards..."*

The Council has asked the legislature to approve the repeal of this provision and its replacement with a new 6 AAC 80.900 (10), reading as follows:

(" 'geophysical hazard areas' means these areas which present a threat to life or property from geophysical or geological hazards, including flooding, tsunami run-ups, storm surge run-ups, landslides, snowslides, faults, ice hazards, erosion, and littoral beach process.")

The amendment would make it clear that erosion is a geophysical hazard for purposes of the ACMP.

A geophysical hazard inventory or study will be needed in the development of each district program. On the basis of this study, policies and regulations will be developed to account for the identified hazards. Districts will then assure that these regulations are followed in dealing with use proposals in the hazard areas. Since it will be impossible for districts to thoroughly assess each hazard area and devise detailed standards covering any conceivable use, developers will be obligated to conduct the surveys and studies needed to determine exactly what siting, design and construction measures are needed. The districts and state agencies will have enough general data to know when to require such surveys from the developers. Current state programs underway for identification of geophysical hazards are those of the Division of Geological and Geophysical Survey in the Department of Natural Resources and the Division of Emergency Services in the Department of Public Safety. In addition, the Corps of Engineers publishes flood hazard reports and other studies of general use for implementing this standard.

Identification of hazard areas now occurs through existing state and local programs and will be augmented by ACMP funds.

Standard

6 AAC 80.060. RECREATION. (a) Districts shall designate areas

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for recreational use. Criteria for designation of areas of recreational use are:

(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or

(2) the area has potential for high quality recreational use because of physical, biological or cultural features.

(b) (Districts and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal waters.)

Comment

This standard obligates the districts to provide for the recreational and tourist needs of their areas by stipulating that areas shall be designated for recreational use. The standard sets two criteria that should be used, although the districts are free to use additional criteria if they choose. This does not require that any areas identified as meeting the two criteria are automatically designated as recreational areas. It only means that these are the minimum criteria for such a designation. The decision to designate an area for recreation is a choice among other possible land and water uses, and must be left to the local governments.

The local means for implementing this standard will vary, depending on the type of recreation intended. The local government could designate the area as a park, which would mean that the area is in public ownership or will be acquired. In other situations the district could zone for recreational housing or for recreational commercial areas which would have the effect of developing or maintaining the desired value.

The state role in this standard is not specified in the regulations. Large scale recreational resources, or those covered by existing or potential state designations, such as state parks, are uses of state concern and will be subject to consideration by the Regional Planning Team (discussed in Chapter 7). Recreational resources of particular value could be designated by the state as Areas Meriting Special Attention (AMSAs) (discussed in Chapter 4). Further, the expertise available

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from the state, including studies already completed (some of which were paid for by ACMP) will be useful to local governments in the development of their district programs.

Standard

6 AAC 80.070. ENERGY FACILITIES. (a) *Sites suitable for the development of major onshore, nearshore, offshore, and outer continental shelf energy facilities must be identified by the state in cooperation with districts.*

(b) *the siting and approval of major oil and gas facilities must be based on the policies of the State of Alaska concerning the onshore aspects of oil and gas development.*

(c) *districts shall consider that the uses authorized by the issuance of state leases for mineral and petroleum resource extraction are uses of state concern. District programs and plans must be consistent with those uses.*

The Council has proposed to the legislature an extensive revision of this standard that would provide as follows:

6 AAC 80.070. ENERGY FACILITIES. (a) *Sites suitable for the development of major energy facilities must be identified by districts and the state in cooperation with districts.*

(b) *The siting and approval of major energy facilities by districts and state agencies must be based, to the extent feasible and prudent, on the following standards:*

(1) *site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements;*

(2) *site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs;*

(3) *consolidate facilities;*

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- (4) consider the concurrent use of facilities for public or economic reasons;
- (5) seek to cooperate with landowners, developers, and federal agencies in the development of facilities;
- (6) select sites with sufficient acreage to allow for reasonable expansion of facilities;
- (7) site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements;
- (8) select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;
- (9) encourage the use of vessel traffic control and collision avoidance systems;
- (10) select sites where development will require minimal site clearing, dredging and construction in productive habitats;
- (11) site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries and hauling out grounds and waterfowl nesting areas;
- (12) site facilities so that the construction of facilities and support infrastructure in coastal areas of Alaska are designed to allow for the free passage and movement of fish and wildlife with due consideration for historic migration patterns, and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;
- (13) site facilities in areas of least biological productivity diversity, and vulnerability and where effluents and spills can be controlled or contained;

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(14) site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;

(15) select sites designated for industrial purposes and where industrial traffic is minimized through population centers; and

(16) select sites where vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(c) Districts shall consider that the uses authorized by the issuance of state and federal leases for mineral and petroleum resource extraction are uses of state concern.

This proposed revision will be discussed in detail in Appendix 7.

The Council also proposed to the legislature a new definition of the term "major energy facility":

"major energy facility" means a development of more than local concern carried out in, or in close proximity to, the coastal area, which meets one or more of the following criteria:

(1) a facility required to support energy operations for exploration or production purposes;

(2) a facility used to produce, convert, process, or store energy resources or marketable products;

(3) a facility used to transfer, transport, import or export energy resources or marketable products;

(4) a facility used for in state energy use; or

(5) a facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in (1)-(4) of this section.

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Major energy facilities include marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals, and other port development for the transfer of energy products, petrochemical plants, refineries and associated facilities, hydroelectric projects, other electric generating plants, transmission lines, uranium enrichment or nuclear fuel processing facilities, and geothermal facilities.

This definition will also be discussed in Appendix 7.

Comment

Subsection (a) declares that energy facility siting on the coast is a state function, but that local governments must also be involved. The state is obligated to identify suitable sites for energy facilities, but this does not automatically mean that a facility will be built, as the actual decision to build is usually made by the private sector. The standard is positive in that a good deal of uncertainty will be eliminated if the state, in cooperation with local governments, declares that a certain site is or is not suitable for energy development. The state could, in the case of a state lease sale of energy resources, insist that only certain sites be used for facilities. It is more likely, however, that a series of alternative designated sites will be available to the developer.

The "policies of the State of Alaska" mentioned in subsection (b) of this standard are those adopted by the Governor in April of 1977 for the use of state agencies. These policies are not yet state regulations, but form the basis for the revision of subsection (b) that has been adopted by the Council and proposed to the legislature. As will be discussed in Appendix 7, the policies will upon their approval by the legislature, acquire the force of state law. This is expected to occur before the issuance of the final EIS on the ACMP. Energy facilities are, of course, subject to all the other ACMP standards.

Part (c) of the standard was adopted to eliminate any doubt that state mineral and energy resource extraction leases are uses of state concern, as are the uses associated with and authorized by such leases.

In accordance with Section 305 (b)(8) of the federal CZMA, the ACMP includes an energy facility planning process. This element of the ACMP

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is described in Appendix 7.

Standard

6 AAC 80.080. TRANSPORTATION AND UTILITIES. (a) *Transportation and utility routes and facilities in the coastal area must be sited, designed, and constructed so as to be compatible with local community goals and desires as expressed in district programs and local comprehensive plans.*

(b) *Transportation and utility routes and facilities must be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility.*

Comment

This standard was developed as a result of two transportation issues that arose in the course of ACMP development. Subsection (a) requires compatibility with properly expressed local desires and reflects public awareness of the impact that transportation facilities can have on communities. However, transportation is also listed as a Use of State Concern, and thus, local programs may not exclude such uses arbitrarily or unreasonably. Note that the vehicle for expression of local desires is under the amendment proposed by the Council, the coastal program of a district, which is created according to the consultation and involvement requirements of ACMP.

The second paragraph of the standard declares that transportation and utility routes and facilities are generally not high priority uses of the coast, and should be kept away from the water's edge in other than extreme circumstances. This section is intended to address only land-based routes. Facilities such as shipping lanes, docks, terminals, and the like are clearly water-dependent and protected by the coastal development standard.

Standard

6 AAC 80.090. FISH AND SEAFOOD PROCESSING. *Districts shall identify and may designate areas of the coast suitable for*

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the location or development of facilities related to commercial fishing and seafood processing.

Comment

This standard is similar to the recreation standard, as the districts are obligated to recognize the fishing industry, but retain the choice whether to make special provision for it. The emphasis is on the shoreside facilities needed to support the industry. Many towns in Alaska are dependent on the fishing industry, and this standard provides an opportunity for those towns to plan for the shoreside needs of the industry.

Standard

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a) *Commercial timber harvest activities in the coastal area must be conducted so as to meet the following standards:*

- (1) the location of facilities and the layout of logging systems must be managed (sited) so as to minimize potential for adverse environmental impacts;*
- (2) unrestricted fish movement (free passage and movement of fish) in coastal water must be assured; and*
- (3) (timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats.)*

(b) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

- (1) onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;*
- (2) sites for in-water dumping and storage of logs must be selected and these activities conducted so*

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as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access must be planned, designed and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossings, including bridges and culverts, must be kept to a minimum number, designed to withstand seasonal high water and flooding, and must provide for unrestricted passage (free passage and movement) of fish.

Comment

A forest practices act was passed at the same time the ACMP Standards were approved. When regulations are adopted under the Forest Practices Act, they will supersede the ACMP timber standard. Until that occurs, however, the ACMP standard is in effect.

The standard addresses most of the timber issues that are relevant to the coast and all of the issues that relate to the impacts of forest practices on coastal values. Herbicides and pesticides are already regulated by the Alaska Department of Environmental Conservation. One issue that awaits resolution is how a concept of "sustained yield" should be defined and, once defined, whether and how it should be applied to forestry on private lands. The legislature has instructed the Council to continue its consideration of this issue. With the creation of the Forestry Practices Board, one member of which is to be a Council member, the two groups will look at the question together.

Standard

6 AAC 80.110. MINING AND MINERAL PROCESSING. (a) *Mining and mineral processing in the coastal area must be permitted, (regulated) designed and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, regional*

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programs, statewide and national needs, (and) district programs, and local comprehensive plans.

(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and prudent alternative to coastal extraction which will meet the public need for the sand or gravel.

Comment

While mining and mineral processing have impacts on coastal values, most of these impacts are addressed by other ACMP standards. However, the Council chose to treat compatibility with local desires and sand and gravel extraction specifically under this heading. The standard states that the other standards of ACMP apply to mining activities, and establishes a low priority for sand and gravel extraction from certain areas of the coast. The Council, after further investigation, may determine that additional regulations are needed, but the present standard is adequate to protect mining as an acceptable use in the coastal area, with some limitations, and to control the adverse impacts that mining and mineral processing may produce.

ACMP regulations on mining should not be taken as an exclusion of this important use. Mining will be a use of state concern in many instances, and as such cannot be arbitrarily or unreasonably excluded by the coastal programs of local governments. Both the state and federal governments own lands known to have significant mineral deposits, of coal, copper, molybdenum, uranium, and other important minerals.

Standard

6 AAC 80.120 SUBSISTENCE. (a) *Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.*

(b) *Districts shall identify areas in which subsistence is the dominant use of coastal resources.*

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(c) Districts may, after consultation with appropriate state agencies, Native corporations, and other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence uses and activities have priority over all non-subsistence uses and activities.

(d) Before a potentially conflicting use or activity may be authorized within areas designated under (c) of this section a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.

(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management.

Comment

Subsistence is one of the most important uses in Alaska's coastal areas and a great deal of controversy surrounds it. The Council felt that resolution of all subsistence issues was beyond the scope of ACMP and the standard was restricted to declaring that subsistence should generally be recognized and protected, that districts are obligated to identify areas of importance to subsistence, and that they then have the option of designating and managing such areas for the benefit of subsistence users.

This standard may generate uncertainty if it is read outside the context of the other standards and state and federal law. The standard relates to land and water use only. It provides that land use may be planned and governed for other values, including residential, commercial, recreational and industrial values. The standard does not enable districts to set season openings or bag limits, or to allocate subsistence resources such as fish and game among subsistence, sport, or commercial harvesters. The power to manage species, and allocate such resources at the state level is held by the Alaska Department of Fish and Game, and this power is protected by 6 AAC 80.010(b) of the standards which provides that the existing powers of state agencies are not diminished by these standards.

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The standard does not aim to protect subsistence activities directly, but rather enables the districts to identify and protect subsistence resources so that, in turn, subsistence activities will be protected.

The standard should be read in conjunction with the habitat protection standards discussed in this chapter, as these standards protect the habitat which supports subsistence resources.

By setting this standard, the Council has eliminated any doubt that making land use decisions for the purpose of protecting subsistence usage of coastal resources is a legitimate and necessary exercise of planning and land use control powers.

While the protection of subsistence resources has been clearly identified in the standards as an appropriate objective of local district programs, the standard should not be read as relieving any district of the responsibility imposed by the ACMA to reasonably accommodate uses of state concern. If a district chooses to emphasize subsistence use in its land and water area planning, and if doing so will exclude or restrict uses of state concern, then the district is obligated to follow the procedures provided for such exclusions and restrictions in ACMA to give evidence of the reasonableness of the limitations. These procedures include consultation with affected interests, a finding that alternative sites do exist for the use of state concern which will be excluded, and a determination that the excluded use would have been incompatible with the proposed site.

Section (e): Resource Regulations

In addition to setting standards for major uses and activities in the coastal zone, the Alaska Coastal Policy Council has identified and promulgated standards for certain coastal habitats and resources. These standards apply to these habitats and resources regardless of the use or activity under consideration. Thus, in addition to satisfying an applicable use standard, a use or activity affecting a specified habitat or resource must meet the relevant habitat or resource standard.

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Standard

6 AAC 80.130. HABITATS. (a) Habitats in the coastal area which are subject to the Alaska Coastal Management Program include:

- (1) Offshore areas;
- (2) estuaries;
- (3) wetlands and tideflats;
- (4) rocky islands and seacliffs;
- (5) barrier islands and lagoons;
- (6) exposed high energy coasts;
- (7) rivers, streams and lakes; and
- (8) important upland habitat.

The key standard applicable to all of the habitats in the coastal zone is:

(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical and chemical characteristics of the habitat which contribute to its capacity to support living resources.

Comment

In earlier drafts of its guidelines and standards, the Council attempted to list all of the important "living resources" of the habitats by species. As the list grew, the Council realized that the term "living resources" included all species and categories of life, and chose to use that term. Specific guidance as to what particular lifeforms are most

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important in particular habitats will be provided by the Council's Manual of Standards.

Note in particular the word "avoid" as it is used in the following standards for various types of habitat. The term is used to apply a strict limitation on impacts, to the point of prohibition. Where the public interest requires some flexibility in the application of those standards, Section 6 AAC 30.130(d) of the approved standards provides a series of stringent tests that divergent activities must meet to be allowed. The directive word "avoid" was used to keep the habitat standards extremely stringent.

In addition to the key standards referred to above, the Council adopted particular standards for particular habitats. Habitats in the coastal area subject to ACMP follow.

Offshore Areas

Offshore areas define the submerged lands and waters seaward of the coastline extending to the continental shelf break. Offshore areas are vital feeding areas for marine mammals, anadromous fish, marine fish, seabirds, pelagic birds and invertebrate fauna. They are particularly important along ice affected coasts where activities may be concentrated between pack ice and the land. Off-shore ice is used for hauling-out and pupping by walrus and seals. Polar bears frequently den on stable landfast ice. Offshore areas are used as migration corridors by whales, fish and seabirds. Although the legal seaward extent of the coastal zone is the edge of the territorial sea, three miles offshore, activities beyond that limit will be monitored closely by the state and the districts for their possible impact on resources within the defined coastal management area.

Standard

Offshore areas must be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial and subsistence fishery.

Estuaries

An estuary is a semi-enclosed body of water having an opening to

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the sea, and containing a measurable quantity of salt. In Alaska, this classification includes, but is not restricted to, river mouths, deltas, fiords, inlets, bays and basins of tidewater glaciers.

The management justification for regarding estuaries as a significant coastal resource involves both the importance of the estuary to the animals and its sensitivity to development. Alaskan estuaries are vital production areas for fish, water, fowl, marine animals and associated marine life. Estuaries also support a variety of terrestrial plants and animals. Conservation of estuarine habitats is necessary for the protection of many renewable and natural resources of Alaska.

Standard

Estuaries must be managed so as to assure adequate water flow, natural circulation patterns, nutrients and oxygen levels, and avoid the discharge of toxic wastes, silts, and destruction of productive habitat.

Wetlands

Wetlands are lands shallowly or intermittently submerged by water. They are characterized by vegetation complexes consisting primarily of sedges, rushes and grasses. Wetlands are vitally important as nesting, rearing, molting, and staging areas for migratory waterbirds, and provide prime calving habitat for moose and caribou. They are extensively utilized for spring foraging by brown bear. Wetlands have abundant small mammal populations and provide an important source of detrital nutrients to coastal waters.

Standard

Wetlands and tideflats must be managed so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances.

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Rocky Islands and Seacliffs

Rocky islands and seacliffs include islands of predominately volcanic or tectonic origin with rocky shores and steep faces. Also included are offshore rocks, capes and steep rocky sea fronts. They frequently serve as breeding areas for seabirds, raptors, fur seals, sea lions and harbor seals. Walrus, sea lions and fur seals haul out on rocky islands in the Bering Sea. Marine mammals and seabirds are highly sensitive to disturbances during breeding and hauling out and seek relatively secluded, predator-free habitat. Large proportions of the world's population of several species of marine mammals and seabirds are dependent on the rocky islands and seacliffs of the Alaskan Bering Sea.

Standard

Rocky islands and seacliffs must be managed so as to avoid the harassment of wildlife, destruction of important habitat, and the introduction of competing or destructive species and predators.

Barrier Islands and Lagoons

Barrier islands are predominantly depositional coastal environments. Barrier island/lagoon systems are formed by deposits of sediments offshore which form a barrier of low-lying islands protecting a salt water lagoon. The lagoon has a free or intermittent exchange of water with the sea.

Barrier islands are probably the most productive marine environments in the Beaufort and Chukchi Seas. They provide vital molting and staging areas for shorebirds and waterfowl during migration. They are important feeding areas for birds, seals, marine fish and anadromous fish. Polar bears den on barrier islands. Barrier islands and offshore bars protect the coast during winter from ice shove and during summer from excessive wave and thermal erosion.

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Standard

Barrier islands and lagoons must be managed so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds.

Exposed High Energy Coasts

Exposed high energy coasts are relatively featureless sections of coastline with direct exposure to ocean-generated wave impact. They are usually characterized by mixed sand and gravel beaches and an active surf-zone. These areas usually have severe icing conditions during the winter. High energy coasts frequently provide spawning and rearing areas for important shellfish and marine fish.

Standard

High energy coasts must be managed by assuring the adequate mix and transport of sediments and nutrients and avoiding redirection of transport processes and wave energy.

Rivers, Streams, and Lakes

These areas need no special definition. They are important as habitat for anadromous and resident fish, migratory birds, small mammals, big game, and supporting species. Rivers, streams and lakes are also sole sources of freshwater for human use in some coastal areas.

Standard

Rivers, streams and lakes must be managed to protect natural vegetation, water quality, important fish or wildlife habitat and natural water flow.

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Important Upland Habitat

This category is intended to include all upland areas within the coastal zone which are important for wildlife habitat.

No special standard has been promulgated.

* * * *

In recognition of the fact that complete nondegradation is an impossible standard to meet, and that in certain instances tradeoffs between natural values and other human values will have to be made, the Council adopted the following limitations on the types of extenuating circumstances that must be demonstrated before an exception to the policies just described can be made:

(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency if the following are established:

(1) there is a significant public need for the proposed use or activity;

(2) there is no feasible and prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and

(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.

The resources that are specifically addressed by ACMP standards are: air, land, and water quality; and historic, prehistoric, and archaeological resources.

Standard

6 AAC 80.140. AIR, LAND, AND WATER QUALITY. *Notwithstanding-*

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standing any other provision of this chapter, the statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the Alaska coastal management program and as administered by that agency, constitute the components of the coastal management program with respect to those purposes.

Comment

The Alaska standards for air, land and water quality are equal to or more restrictive than corresponding federal standards. This regulation incorporates federal standards as well. Since the Department of Environmental Conservation is specifically mentioned in this regulation, the findings of that department will be conclusive in determinations of consistency with ACMP based on air, land, and water quality considerations. Thus, for example, failure of a coastal development proposal to acquire a waste treatment permit from Environmental Conservation constitutes automatic inconsistency with ACMP.

The federal Coastal Zone Management Act requires incorporation into state coastal programs of the requirements of the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended. These standards are the law in Alaska, although in some cases Alaska air and water quality standards are more stringent and must be met as well. The federal standards are nevertheless incorporated into ACMP, and should be considered as parts of the ACMP policy.

Standard

6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES. *Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state or local history or prehistory.*

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Comment

This standard requires attention to historic, prehistoric and archaeological values by the districts and state agencies, but does not require automatic protection of such values. However, there are existing governmental programs available to protect these resources and values once they are identified. Such programs include the National Historic Register, the state historic register, state parks designation provisions in the Alaska Native Claims Settlement Act, and the AMSA designation process.

The Alaska Division of Parks, a unit of the Department of Natural Resources, operates a program of historic site identification and protection. At a minimum, the sites are obtained or held by Natural Resources until the Division of Parks can develop them as historic waysides, parks, or recreation and interpretation areas.

Section [f]: "Feasible and Prudent"

An important term that appears in many of the standards that have just been discussed is "feasible and prudent." This term is used to describe situations when a normally applicable standard may be departed from, where forcing compliance with the standard would be impossible or cause a worse result than non-compliance. The term appears in the standards on coastal development, energy facilities, transportation and utilities, mining and mineral processing, and habitats.

At its meeting of December 14-15, 1978, the Council adopted the following definition of "feasible and prudent."

"feasible and prudent" means consistent with sound engineering practice and not causing environmental, social, or economic problems that outweigh the public benefit to be derived from compliance with the standard modified by the term "feasible and prudent."

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If this definition is approved by the legislature, it will become an integral part of all the ACMP standards in which the term "feasible and prudent" appears.

* * * *

To learn more about the various state and federal authorities that can and will be used to assure implementation of these standards, as well as how local governments will respond to the standards in their programs, see Chapter 3, District Programs, and Chapter 6, the ACMP Management System.

Section (g): Additional Guidance from the Council

In addition to the provisions of ACMA and the ACMP regulations, the Council provides an additional form of guidance to participants in ACMP.

The Council can pass resolutions. These are statements of Council intent, with which the Council may bind itself to procedures, interpret the ACMA or ACMP Standards, or suggest courses of action to others. Resolutions have no binding legal effect but can be useful in predicting how the Council will act in particular situations. The Internal Guidelines of the Council, presented earlier in this chapter, are an example of how the resolution method may be used.

Another resolution, discussed in more detail in Chapter 4, was designed to clarify the Council's activities in special area designation, and to show how the Council could be involved in special area designation undertaken by authorities other than ACMP. This is a procedural resolution which augments the substantive provisions of the Areas Which Merit Special Attention section of the ACMP regulations.

Chapter 3: District Coastal Management Programs

Section(a): Introduction

The size and diversity of Alaska's coastal area have required specially adapted organizational arrangements for coastal management. These specialized needs are reflected in the Alaska Coastal Management Act of 1977 (AS 46.40 and 44.19.891-894), which provides for local coastal programs to be developed in conformity with general guidelines and standards. This approach represents a partnership of shared state and local management responsibilities. The Coastal Policy Council is responsible for statewide oversight and coordination, while local units, the coastal resource districts, are to develop more specific programs for their own areas. These district coastal management programs are the building blocks of the Alaska Coastal Management Program (ACMP).

One of ACMP's administrative goals is to complement and strengthen local and areawide planning and management capabilities in coordination with state and federal agency and private sector activities. In so doing, ACMP is intended to furnish coastal area citizens with improved opportunities to constructively influence the land and water management decisions which affect their lives. District coastal management programs are intended to more equitably and efficiently apply the diverse array of existing federal, state, and local authorities governing such uses, and to ensure the balanced consideration of a broad range of competing interests. Likewise, district coastal programs are not solely regulatory in nature. They are intended to foster affirmative actions which enhance the human and natural environment of the coast by such means as matching capital improvement programs with coastal management policies and priorities.

This chapter defines and describes the role of local governments in ACMP in detail. The following subjects are covered:

- Coastal Resource Districts - What they are
- Coastal Resource Service Areas - General Information
- District Program Development - Regular and Service Area
- District Program Approval Procedure
- Status of District Programs - Fall 1978

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Section(b): Coastal Resource Districts - What They Are

Coastal resource districts are the basic local governmental units of ACMP. They include:

(1) Unified Home Rule Municipalities. Unified city and borough governments fall within this category. They are the:

- Municipality of Anchorage
- City and Borough of Juneau, and
- City and Borough of Sitka.

(2) Organized boroughs which exercise planning and zoning authority. Other organized boroughs, of any class, which exercise planning and zoning authority fall within the second category. These include home rule and second class boroughs and, specifically, the:

- North Slope Borough (Home rule),
- Bristol Bay Borough (second class),
- Kenai Peninsula Borough (second class),
- Ketchikan Gateway Borough (second class),
- Kodiak Island Borough (second class), and
- Matanuska-Susitna Borough (second class).

The Haines Borough is the only third class borough in Alaska. Planning and zoning authority may be assumed by a third class borough on a service area basis if:

A majority of voters in a general election vote to provide for planning, platting and zoning on a service area basis; and the exercise of these powers is established by ordinance by the borough assembly, and approved by a majority of qualified voters residing within the service area and voting on the question at a regular or special election.

Planning and zoning are not a mandatory function of third class boroughs. Thus, the Haines Borough could presumably become a coastal resource district if a service area (or areas) encompassing the coastal zone outside the City of Haines was established. But until this step is

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taken, the Haines Borough is not a coastal resource district. AS 38.05.037(b) conveys authority to the Division of Lands in the Department of Natural Resources to exercise its zoning power within any portion of a third class borough covered by the Alaska Coastal Management Program, if the municipality has not done so.

(3) Home rule and first class cities outside of organized boroughs with planning and zoning authority. AS 29.43.040 gives mandatory planning and zoning powers to home rule and first class cities outside of organized boroughs with these powers. Each of these home rule and first class cities is then, by definition, a coastal resource district. Home rule and first class cities that are coastal resource districts include the cities of:

Cordova	Nome
Craig	Pelican
Dillingham	Petersburg
Haines	St. Mary's
Hoonah	Skagway
Hydaburg	Unalaska
Kake	Valdez
King Cove	Wrangell
Klawock	Yakutat

AS 46.40.190(a) allows a city to include itself within an adjacent coastal resource service area (defined and described in a subsequent section of this chapter) if the city's governing body consents by resolution, and a copy of the resolution is filed with the Commissioner of Community and Regional Affairs. Such an action would presumably remove a city from its status as a separate coastal resource district. An opinion has been requested from the State Attorney General to confirm this interpretation.

(4) Second class cities outside of organized boroughs' planning and zoning authority, and which have an established planning commission and, in the judgement of the Commissioner of Community and Regional Affairs, have the capability to prepare and implement a district program. Under AS 29.43.040, second class cities may assume planning and zoning authority; but planning and zoning is not mandatory. District boundaries would coincide with municipal limits, as described in (3) above.

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The Alaska Coastal Management Act does not set a deadline for determining the capability of second class cities to develop and carry out district coastal programs. For this reason, along with the strong theme of responsiveness to local concerns embodied in the Act, the Department of Community and Regional Affairs has taken the position that rather than making a single, all-encompassing evaluation of second class city capabilities, it will consider each city expressing interest on a case-by-case basis. At present, most second class cities probably do not possess the requisite capability of being coastal resource districts. The cities of Whittier and Tenakee Springs are, to date, the only second class cities which have expressed the intent to develop a district coastal management program for their area.

(f) Coastal resource service areas established and organized under AS 29.03.020 and AS 46.40.110-80. Coastal resource service areas may be organized to develop district coastal management programs in the remainder of the Unorganized Borough. Because of special problems faced in the Unorganized Borough, a separate section dealing with service area organization and operation has been developed.

Section(c): Coastal Resource Service Areas General Information

Alaska is of immense size, but much of its small population is concentrated in the urban areas. This results in large areas having insufficient population to support a regular local government. The legislature, in attempting to cope with the vast areas having no local government, designated the entire unincorporated area as the Unorganized Borough, and provided various means by which services could be delivered to areas within it. Some basic governmental services are provided to the Unorganized Borough directly by the state. Police protection is one example. In other cases, areas of the Unorganized Borough may be partially organized for specific purposes. Such lesser forms of organization are called "service areas" and are provided for in AS 29.03.020:

Allowing for maximum local participation, the Legislature may establish, alter, or abolish service areas within the Unorganized Borough to provide special services, which may

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include but are not limited to schools, utilities, land use regulations and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.
(emphasis added)

Recognizing the need to provide Unorganized Borough residents with an opportunity to participate in the development of district coastal management programs, and the lack of an existing areawide mechanism through which this could be accomplished, the legislature provided for the creation of coastal resource service areas in Article 2 of the state Coastal Management Act. A coastal resource service area becomes a coastal resource district (just as organized boroughs with planning authority are) following a special organization election.

Service Area Boundaries

Legislation was passed in 1975 which provided for the creation of special service areas to furnish public education in the Unorganized Borough. The Unorganized Borough was divided into educational service areas generally using the boundaries or sub-boundaries of the regional corporations established under the Alaska Native Claims Settlement Act. The units that were established are called "regional educational attendance areas" (REAAs). Each REAA was delineated to contain a culturally, linguistically, and socio-economically homogeneous area. Also considered in establishing REAA boundaries were transportation and communications systems, drainage basins and other identifiable geographic features, and municipal or other governmental or regional boundaries.

A coastal resource service area contains the area defined by one or more of the existing REAAs. AS 46.40.120 allows two or more REAAs to be placed in a single coastal resource service area after a public hearing is held in the area affected. This statute set criteria to be applied in considering combinations of REAAs, and required all determinations to be made by December 4, 1977.

The Department of Community and Regional Affairs conducted a number of public hearings, with the Commissioner rendering a determination dated December 2, 1977. The Commissioner's major finding was

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that a determination was generally premature, and that given the strong emphasis on responsiveness to local conditions embodied in the Alaska Coastal Management Act, the fact that guidelines and standards for the Alaska Coastal Management Program had yet to be adopted by the Coastal Policy Council, and the fact that Unorganized Borough residents were not sufficiently conversant with the options offered by the Alaska Coastal Management Program, a postponement of the deadline was strongly recommended. A statutory amendment, allowing a determination on the combination of REAA's to form a coastal resource service area to be made after December 4, 1977, as long as the determination preceded actual organization, was incorporated into the ACMA by SB 388, passed in 1978.

To date, significant interest has been expressed in combining REAAs 3 and 4 in the Yukon-Kuskokwim Delta Region, and REAAs 6 and 7 in the Bristol Bay region. REAAs 6 and 7 were combined in the December 2, 1977 determination. The combination of REAAs 3 and 4 is pending.

Organization

Organization of a coastal resource service area may be initiated in three ways:

- (1) Submissions to the Council of a petition signed by a number of registered voters equal to 15% of votes cast in the service area in the last state general election; or,
- (2) Submission to the Policy Council of a resolution approved by 25% of the city council and traditional village councils within the service area; or
- (3) The Policy Council may decide to consider organization of a coastal resource service area because it appears that a major economic development activity will occur in the area.

In the case of a locally initiated petition or resolution sent to the state, the Council transmits the proper petition or resolution, and requests the Lieutenant Governor to conduct an organization election, which must be held within sixty to ninety days after receipt of the petition, resolution or direction. If the vote is certified, the

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coastal resource service area is organized (i.e., it becomes a coastal resource district), and a district coastal management program must be submitted to the Council thirty months from the date of certification. If the vote is negative, the Council may take no further action, unless it appears that a major economic development activity has or will occur and the Council chooses to take action.

A major economic development activity "...includes a call for nomination by the Secretary of the United States Department of the Interior for leasing of tracts within petroleum basins in water of the outer continental shelf adjacent to the coastal resource service area, or any other significant industrial or commercial activity which, in the opinion of the Council, would commit the resources of the coastal area to a use of direct and significant impact upon the coastal waters of the State." (AS 46.40.160(b)). If the Council decides to consider organization of a coastal resource service area, one or more public hearings must be held in the proposed area. Following this, a majority of Council members may direct the Lieutenant Governor to conduct an organization election.

Not less than sixty nor more than ninety days after certification of an affirmative organization election, the Lieutenant Governor will provide for an election of the coastal resource service area board.

The Commissioner of Community and Regional Affairs may, after consultation with residents, divide the service area into sections for the purpose of nominating and electing coastal resource service area board members. If sections are set, each board member must represent, as nearly as practicable, an equal number of persons. Each section must be compact and contiguous and, again as far as practicable, be culturally, linguistically, and socio-economically homogeneous. In any case, board members are elected on an at-large basis.

Following the certification of election results, the seven-member coastal resource service area board takes office and assumes the responsibility for developing the district program in compliance with the guidelines and standards. The service area also becomes eligible for financial assistance at this time.

If a service area which has been organized fails to make substantial progress in the preparation of an approvable management program

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within eighteen months of election certification, or has not submitted a program to the Council within thirty months of certification, the Council will meet with the service area board to determine whether the board is capable of completing a program within established time limitations. The Council may request the Department of Community and Regional Affairs to complete the district program.

Under certain circumstances, second class cities in the Unorganized Borough may be, and first class and home rule cities in the Unorganized Borough are, coastal resource districts, and are thereby excluded from coastal resource service areas. AS 46.40.190(a), however, appears to provide for inclusion of such cities in adjacent coastal resource service areas, as previously pointed out. The Act is silent with respect to when such an option might be exercised, and what effect this action would have upon service area board elections and representation.

Review

A district coastal management program prepared for a coastal resource service area must be submitted for review to each city and village within the service area before the program is adopted by the board or the Department of Community and Regional Affairs. (A "village" is an unincorporated community where at least 25 persons reside as a social unit.)

Within 60 days of submission to a city or village, the city council or traditional village council must either approve the program or enter objections to all or any part of the program.

Objections by a city council are limited to program elements affecting resources or use of resources within two miles of the village. They must be detailed and specific. New matter submitted by a city or village which is consistent with the guidelines and standards must be accepted, and the district coastal management program modified accordingly.

If cities and villages approve the program, or if cities and villages fail to object within the allotted time, the coastal resource service area board or the Department of Community and Regional Affairs may adopt the district coastal management program as offered.

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Following adoption of the district coastal management program by the board or the Department of Community and Regional Affairs, the program will be submitted to the Policy Council for review and approval as provided for in the guidelines and standards.

Implementation

An approved district coastal management program for a coastal resource district which does not have and exercise zoning or other controls on the use of coastal area resources is to be implemented by appropriate state agencies. Implementation is to be in accordance with the statement of needs, policies, objectives and standards adopted by the district in its program.

Section (d): District Program Development - Regular and Service Area

Procedures for developing district coastal management programs and provisions for their review, approval and implementation are found in the guidelines and standards, Title 6, Chapter 85 of Alaska's Administrative Code. Ten elements of district programs are described. These elements need not be completed in a sequential fashion, nor set out as discrete parts of the district program. Districts need only demonstrate compliance, through an appropriate local approach, with the requirements of the guidelines and standards and the Alaska Coastal Management Act. For purposes of discussion, each of these ten elements are described individually:

Needs Objectives and Goals

Each district program must describe coastal management needs and program goals and objectives. If a district already has a comprehensive plan governing land and water resource uses, the district's coastal program is to be based on the plan.

Organization

Each district must also describe how it is organized to develop and

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carry out its coastal program, and identify staff, financial needs, and any reorganization necessary.

Boundaries

District programs must map inland and seaward boundaries of the coastal zone. Prior to Council approval of a district program, initial boundaries encompass the "zone of direct interaction" and "zone of direct influence," as defined in Biophysical Boundaries of Alaska's Coastal Zone (Refer to Chapter 4 for an explanation of these terms.) Final boundaries of the coastal area subject to a district program must be mapped to enclose those lands which would be included in the coastal area and subject to the district program if they were not subject to the exclusive jurisdiction of the federal government. This provision supplies a definition of the area subject to district program jurisdiction that will allow for the anticipated transfer of lands under the Statehood Act and the Alaska Native Claims Settlement Act without boundary redefinition. Ownership maps, of course, will be subject to revision as transfers occur. District defined boundaries may diverge from the initial boundaries if they:

- (1) *extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on marine coastal water; and*
- (2) *include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands and beaches (6 AAC 85.040.)*

Providing the criteria are met, final district boundaries may be adjusted to reflect new or more detailed resource information and may be based on political jurisdiction. The Coastal Policy Council, through its oversight and review functions, is responsible for ensuring that district coastal area boundaries are compatible with those of adjoining areas.

Resource Inventory

District programs must contain a resource inventory which describes:

- (1) habitats within and adjacent to the district;

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- (2) major cultural resources within and adjacent to the district (This refers to a broad range of social and cultural factors and man-made facilities, including demographic and financial resources, utilities, major recreational and transportation facilities, etc.);
- (3) major land and water uses and activities conducted within and adjacent to this district;
- (4) major land and water resource ownership and management responsibilities within and adjacent to the district; and
- (5) major historic, prehistoric, and archaeological resources within and adjacent to the district.

Resource Analysis

Based upon the resource inventory, a district program must also contain a resource analysis that includes:

- (1) Significant changes in any of the conditions portrayed in the resource inventory described above;
- (2) an evaluation of the environmental capability and sensitivity of resources (including cultural resources) and habitats with respect to accommodating various uses; and
- (3) an assessment of present and anticipated needs and demands for coastal resources.

Subject Uses

District programs must describe land and water uses and activities subject to the program. These uses and activities must include:

- (1) coastal development,
- (2) development in geological hazard areas,
- (3) recreation
- (4) energy facilities

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- (5) transportation and utilities,
- (6) fish and seafood processing,
- (7) timber harvest and processing,
- (8) mining and mineral processing, and
- (9) subsistence.

Proper and Improper Uses

Each district program must describe uses and activities, including uses of state concern, considered proper and those considered improper within the coastal area.

Uses of state concern are defined in AS 46.40.210(6).

Policies

A key element of a district program is the policies for those land and water uses and activities subject to the program. Policies must be sufficiently comprehensive to apply to all uses, activities, and areas in need of management; specific to allow clear understanding of who will be affected by the district program, how they will be affected, and whether specific proposals for land and water uses and activities will be approved; and enforceable to ensure their implementation.

Areas Which Merit Special Attention

Coastal resources districts are also responsible for designating and developing management policies for areas which merit special attention within district coastal area boundaries. Areas which merit special attention are defined in AS 46.40.210(1) and in 6 AAC 80.160.

Implementation

District programs must include a description of the methods and authorities which will be used for implementation. Examples which might be applied include: land and water use plans; municipal ordinances and resolutions, including zoning and subdivision ordinances and building

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codes; state and federal statutes and regulations; capital improvement programs, the purchase, sale, lease, or exchange of coastal land and water resources; cooperative agreements and memoranda of understanding; purchase of development rights; and coordinated project or permit review procedures. Methods and authorities should be adequate to insure program implementation and, if not, the additional steps which will be necessary must be specified.

Public Participation

District programs must include evidence of significant and effective opportunities for public participation during program development and implementation.

At least two public meetings are to be held in a district during program development, to inform the public and receive comments on the program. A brief summary or report of the matters considered at public meetings held is to be prepared by the district, made available to the public, and retained for inclusion in the record file described in review and approval procedures.

At least thirty days before giving conceptual approval to the district program, or a significant amendment to it, the district must give public notice of the proposed action by advertisement in a newspaper of general circulation within the district. The notice must specify the time and place of a public hearing on the proposed action, which may not be held any sooner than ten days after first publication. At the hearing, each interested person will be given the opportunity to present statements, orally or in writing. Districts must also insure that, when requested, translation into appropriate Native languages is provided.

Under an amendment to the guidelines and standards that was adopted by the Council on December 14, 1978, and is awaiting approval by the legislature, notice of the proposed conceptual approval of its program or a significant amendment thereto by a district would have to be given sixty days in advance by newspaper advertisement, radio, and posting. The proposed program document or significant amendment would have to be available for review before the hearing, which could be held no sooner than thirty days after issuance of public notice.

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Districts must also provide, in a timely manner and an understandable form, information explaining: the district coastal management program; public participation requirements during program development; how and when the public may participate in program development; what related information is available; and where this information may be obtained.

Coordination and Review

Districts must provide opportunities for coordination and review by federal, state, and local governmental agencies, including adjacent districts, and others with a significant interest in coastal resources or who are or may conduct uses and activities that will or may have a direct and significant impact on the district's coastal area.

Section (e): District Program Review Procedure

This procedure is designed to meet both the legal requirements of Council review and approval, and to assure timely and adequate review opportunities for state and federal agencies and to the district.

During the development phase of the program, the districts must submit regular progress reports, including early drafts of segments of the district program, and provide for state, federal and private involvement in their development process.

The formal procedures begin at the point where the district has generally completed its basic work, and its program is in a draft document stage. The district has one or two hundred copies of its draft program document, called the "review draft," printed. (The Department of Community and Regional Affairs may do this if the district has limited printing capability.) Its publication does not imply approval by the district, but only that the material in the draft is under consideration.

Here is the approval process:

Step 1: District prints review draft and circulates copies within the

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district for review, sends fifty to a hundred copies to the Department of Community and Regional Affairs for distribution and, in consultation with the Department of Community and Regional Affairs and Office of Coastal Management, schedules one or more public hearings thirty to sixty days from the date of transmittal to the Department of Community and Regional Affairs. Department of Community and Regional Affairs sends copies of the draft to state and federal agencies, and to private interested groups if requested. The Office of Coastal Management also gets a copy.

- Step 2: A public hearing is held within the district. (There may be more than one.) Any person or agency may comment. All who comment, whether at the hearing, or in writing to the district prior to the hearing, receive "standing" and may participate in the later steps.
- Step 3: After the hearing, the district will respond to the comments made. This can be done in either a new draft of the district program document or an addendum. When the changes are made, the governing body of the district, or the board in a service area, gives "concept approval" to the changed program document, which is called the "concept approval draft." The concept approval draft is then officially transmitted to OCM, which receives it on behalf of the Council. Also transmitted is the record of the hearing(s), including all comments received in writing.
- Step 4: When OCM receives the concept approval draft and the hearing material a ninety-day time period begins, by the end of which the Council must give concept approval to all or part of the program, or determine and declare which parts of the program are not approvable. Within thirty days of receipt of the concept approval draft OCM will conduct its own review and make recommendations. These recommendations will then be sent to the district and to other interested parties. Also at this point, OCM will send copies of the concept approval draft to other parties, particularly the federal and state agencies. (Note: OCM is obligated to send its recommendations to any person or agency who commented at the public hearing held by the district, whether orally or in writing, at or before the hearing. The extent to which OCM can also send copies of the

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concept approval draft along with the recommendations will depend on the number of commentators and the size of the document. The concept approval draft would, in any case, be available for inspection at convenient places in the district and elsewhere in the state.

- Step 5: During the second thirty-day interval of the ninety-day time period, any person who received OCM's recommendations may comment to the Council in writing. (Note: this means that a person must have commented to the district first in order to participate in this phase of the process. This lends strength and meaning to the district hearing, and encourages the resolution of problems at the district level.) The deadline for these comments is the 60th day of the procedure.
- Step 6: By the 70th day, OCM must submit its response to the comments on its recommendations to the Council (Note: By this point, the Council has had copies of the concept approval draft and the OCM recommendations for a little over 30 days, and is just receiving the comments by others and OCM's reactions to those comments.)
- Step 7: By the 90th day, the Council will have held a meeting and taken an action on the concept approval draft. By this point, the state and federal review, including OCZM review for the purpose of including the local program into the federally-approved ACMP, will have occurred. The Council action may be full approval, partial approval, or refusal to approve. In the case of full approval, the procedure continues to Step 8; if partial or no approval, then a special procedure begins to allow the Council and the district to resolve the problems that prevented full approval. This will result in a new draft of the district program document, or a further addendum.
- Step 8: This step begins when a version of the district program document has received both concept approval from the district (prior to submittal to the Council) and approval by the Council. This draft is called the "council approved draft," and is returned for final approval by the district. This is done for two reasons. First, the district should directly approve any changes made in the concept approval draft made by

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the Council; and second, full district approval must be made by ordinance, which is a more formal and binding action than concept approval. After the district has made final approval of the Council approved draft, it is returned to OCM for processing in the legislature. At this point added material may be incorporated into the main body of the draft. This will depend on the amount of time remaining before the beginning of the legislative session.

Step 9: The Council and district approved draft is submitted to the legislature by OCM on behalf of the Council and the district. This must occur before the 10th day of the regular session, which usually occurs in late January or early February of each year. The district is free to proceed with implementation of its program prior to this time, since it has been adopted by local ordinance and is in force under the planning and zoning authorities of the district, but the program does not have status as a part of ACMP until the legislature has ratified the Council's approval. Incorporation of a district program as part of the federally approved ACMP is discussed in the following section.

Step 10: After the legislature has approved the district program, it is returned to Office of Coastal Management and the district. At this time the final program document may be printed.

The Council has recently adopted changes to the guidelines and standards that would extend "standing" to participate in the later stages of its review of a district program to a range of persons other than those who participate in the district's hearing. These would require that the OCM recommendation be sent to all persons who have requested the recommendation in writing, and would allow comments by such persons on the recommendation within thirty days after its service. Broad public notice of the recommendation would also be required, and any person not served with the recommendation would have the right to comment on it within thirty days after notice was published. OCM would respond to all comments within thirty days after the deadline for their submission had passed. If mediation sessions between the Council and a district are held under AS 46.40.060(b), any person would be allowed to attend the sessions.

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This rather complex procedure results from the requirements of the Alaska Coastal Management Act itself and the need to assure that the Council will be taking action based on a solid record of comments and findings. The legislature may choose, at some future time, to delete its role in district program approval. This will speed matters to some extent and allow district programs to take effect at any time of the year. As the situation stands, district programs will be taking effect some time after the beginning of each legislative session (January), and therefore, will require submissions to the Council in the summer or early fall of the preceding year in order to match time with the legislature.

Amendments

The same procedure is used for substantial amendments to district programs. Minor amendments, such as small zone changes or conditional uses, will not be subject to the procedures if the initial district program forecasts them and provides adequate procedures at the district level to assure that the ACMP Guidelines and Standards will not be violated.

Section (f): Federal Involvement and Review of District Management Programs

In order for district programs to acquire the same status and authorities under federal law as a federally approved state program, the district programs must officially be incorporated into the state program by the federal Office of Coastal Zone Management. Approval under the federal CZMA would make the districts eligible for funds to implement their programs, and would add the district programs to the body of policy that is the basis of federal consistency determination. Federal regulations (15 CFR 923.80 et. seq.) provide procedures for changes in state programs. The addition of a district program to the state program would be treated according to the requirements of these regulations.

The present federal regulations on program approval and amendment, published as interim final regulations on March 1, 1978, distinguish between program refinements (or minor changes) and program amendments

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(major changes). The determination of the significance of the impact on the environment of the change, and thus the appropriateness of EIS preparation, is a separate determination from the amendment/refinement distinction. The cited regulations are undergoing revisions as of this writing and changes in the procedures for modifying an approved state program are anticipated. Since review of ACMP will occur under the final regulations (scheduled for an effective date early in 1979), procedures for incorporation of the district programs into the state program will have to be in conformance with the revised regulations.

In the face of this uncertainty, Alaska OCM has drafted procedures for incorporation of district programs that include broad review and consultation. The guidelines and standards have been recently revised to assure that all interested parties, including state and federal agencies, have ample opportunity to participate in the review process that precedes district program approval. OCM feels that these procedures provide assurance that the federal agency views of the national interest in facilities of greater than local concern are carefully considered. These procedures have been submitted to the federal Office of Coastal Zone Management for review as part of this program document, but a final determination of their adequacy under federal law will have to await the availability of the new regulations. OCM assures reviewers, however, that the review procedures that eventually become a part of a federally approved state coastal program for Alaska will give wide and repeated opportunity for review and comment, and will be fully in compliance with the new federal regulations. The opportunities for federal involvement in, and review of, district coastal management programs are summarized below.

These procedures occur in three phases:

1. federal agency involvement during the preparation of the local program;
2. federal agency participation in the review of the local program;
3. federal agency opportunities after a district program has been approved by the legislature.

See also Appendix 10 for additional information about agency involvement in district program development.

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1) Federal agency involvement during preparation of the local program - Before a district begins preparation of a local program, all federal agencies will be notified by OCM. A copy of the scope of services embodied in the grant contract between the state and the district will also be provided to federal agencies. During the course of the development of the district program, the district will be obligated to solicit the advice and contribution of federal agencies. In turn, the district will also provide copies of draft materials, questionnaires and other interim products in an attempt to refine the areas of common concern between the district and federal agencies. The Office of Coastal Management will facilitate this process whenever and wherever possible. This may include setting up meetings between the federal agencies involved with the district, or mediation of disputes between the district and a federal agency. Additionally, there may be information, or even direct services, that the federal agency could provide to the district. OCM would act to determine what services might be available from a federal agency for a given district, alert the district to the availability of these services, and in any other way facilitate the two-way delivery of services and improvement of communication.

2) Federal agency participation in the review of the local programs -- This period begins when a local government completes a full draft of its district coastal management program. There are three levels of approval for district coastal programs. They are:

- a. the district itself;
- b. the Alaska Coastal Policy Council;
- c. the Alaska Legislature.

It is important at this point to note that the structure of the Alaska Coastal Management Program has been designed to encourage the maximum amount of problem resolution at the local level; therefore, participation at the local level of review is extremely important. As described earlier, the local government will prepare a draft of its program called a "hearing draft" and will submit this to the Office of Coastal Management. The Office of Coastal Management will insure that it is distributed to all relevant federal agencies (those that expressed interest in reviewing the hearing draft). Federal agencies will then have a period of time in which to examine the hearing draft and respond

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to the local government. The response may be either in writing, or orally at a public hearing that will be held by the local government. The local government will use the federal comments it receives, along with other comments, to revise the hearing draft into a "concept draft. Local response to comments will be by means of actually making the changes requested in the concept approval draft, or by corresponding with reviewers and reporting how the concerns of the reviewer have been addressed, and why suggestions that were not adopted were rejected. In many cases, the problems of a reviewer can be dealt with by clarifications in the text of the district program document, or by simply noting another portion of the hearing draft which responds to the reviewer's concern. DPDP will monitor this aspect of comment response carefully, and will assure that all federal comments are responded to and all federal letters answered. The record file accompanying the concept approval draft must contain all of the comments on the review draft and local response to those comments. The Office of Coastal Management will make a finding as to the adequacy of the local program. This will be sent, along with a copy of the second draft of the local program document, again to interested federal agencies. Federal agencies which commented on the hearing draft will be asked to comment a second time, and address the Council if they wish.

Upon Council approval, the district program document is sent back to the district for full adoption by the district, and then transmitted to the legislature through OCM. Copies of the Council and district approved draft would be made available to the federal agencies at this time. At this time again, the federal agencies will have the opportunity to comment by addressing the legislature directly, prior to legislative action on the program. At this point the legislature approves the local program for the purposes of state law.

As was noted above, the procedures by which district programs will be incorporated into the ACMP for federal purposes have not yet been determined. Upon the issuance of final regulations on this subject by OCZM, OCM and OCZM will consult to develop a federal review process that is to the greatest possible extent, conducted concurrently with the state review procedure. Federal approval must, of course, take place only after the district program has been approved by the legislature.

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(3) Federal agency opportunities after a district program has been approved by the legislature. -- If, after the legislature has approved a district program, a federal agency continues to believe that its legitimate concerns have not been addressed adequately, it will have the opportunity to present its views to OCZM before the final decision on federal approval is made. The form that this opportunity will take cannot be determined precisely until final OCZM regulations on the subject have been adopted.

Local Response to National Interest

Another issue which has arisen in the development of ACMP and of the guidelines for local programs is the matter of local response to federal concerns. First, federal concerns are in the ACMP definition of uses of state concern, and thus districts may not arbitrarily or unreasonably restrict or exclude uses of national concern.

Second, federal agencies will have had the opportunity to participate in the development and approval of local programs, and thus a chance to express their concerns in the local context, and in light of local desires. The Office of Coastal Management is obligated to review not only the district program but the comments received at the district hearings. By this means, OCM will be able to determine if federal comments were properly considered in district revisions to the review draft, and the federal agencies will be able to determine if OCM has done this when they see OCM's recommendations on the program.

Finally, at the state level, unsatisfied federal agencies will be able to approach the Council directly either when the Council meets to act on the district program or if a state agency is not following the approved district program. Even beyond this, an aggrieved federal agency may appeal to the Department of Commerce for exclusion of the local program from the federally approved Alaska Coastal Management Program.

Section (g): Status of District Programs - Fall 1978

Coastal resource districts range in size from the Municipality of Anchorage, a metropolitan area with some 200,000 residents which offers

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a full complement of services and facilities, to the numerous small villages and cities of rural Alaska, which are dispersed settlements with low populations and limited municipal government staff and resources. Some areas, such as the Ketchikan Gateway Borough, have remained relatively stable, while others, as exemplified by Cook Inlet region boroughs, have experienced explosive growth. With this extreme variability, coastal resource districts have made uneven headway in the completion of district programs. In addition, uncertainty surrounding the contents and ultimate fate of the guidelines and standards, as well as constraints imposed by the availability of funding and the timing of grant awards, have discouraged commitments by some coastal resource districts.

Funds were allocated for local coastal program development for the first time, as part of the third-year grant to the state. Some \$200,000 was targeted for municipalities, with the Department of Community and Regional Affairs serving as pass-through agent. These funds pre-dated the passage of the Alaska Coastal Management Act, definition of coastal resource districts, and the development of guidelines and standards.

In anticipation of state legislation, the Department of Community and Regional Affairs developed preliminary guidelines for local coastal program development. These guidelines were to serve as ground rules in soliciting and evaluating grant applications, awarding grants, and administering grant contracts with local governments. Under the third-year grant for ACMP, financial assistance was made available to the:

- City and Borough of Juneau, to complete the initial phase of a two-phase program;
- North Slope Borough, to develop a program for the Prudhoe Bay area;
- Cities of Craig and Klawock, two neighboring communities which undertook an innovative joint program to be completed during the subsequent year; and
- City of Unalaska, which through use of funds provided by a comprehensive planning assistance grant from the U.S. Department of Housing and Urban Development, along with coastal management funds and a

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local matching share, produced a comprehensive development plan with a coastal management element.

In the fourth-year program development grant for ACMP, \$400,000 has been allocated for coastal resource districts. Grants have been made to the:

- Cities of Craig and Klawock, to finish their joint program;
- Ketchikan Gateway Borough, to add a coastal management element to its recently completed comprehensive plan, and comply with the guidelines and standards; and
- City of Cordova, to simultaneously develop a coastal management element to its recently completed comprehensive plan in compliance with the guidelines and standards, and a coastal energy impact strategy. (A combined grant applying both coastal management and CEIP funds was awarded.)

Grants are also about to be awarded to the:

- City and Borough of Juneau;
- North Slope Borough; and
- Kenai Peninsula Borough, to continue work initiated during the preceding grant-year.

Grants are also expected to be awarded soon to approximately six other coastal resource districts. In addition, a number of districts are engaged in related planning and management projects which will facilitate coastal program development. While a number of districts have yet to take affirmative action toward complying with requirements of the Alaska Coastal Management Act and the guidelines and standards, roughly 85% of the state's coastal population resides within districts where substantial progress has been realized.

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Under prevailing statutes, district coastal programs must be submitted to the Coastal Policy Council for approval within thirty months of the effective date of the Act (i.e., by December 4, 1979), or, in the case of a coastal resource service area, within thirty months of the organizational election.

In its Resolution No. 7 of December 15, 1978, the Council asked the legislature to permit the Council, in its discretion, to extend the deadline for submission of district programs on a case-by-case basis for a period of up to 54 months from the effective date of the Act or from the organizational election of a coastal resource service area (to December 4, 1981). If the legislature grants the Council's request, the Council and the districts obtaining extensions will probably conclude agreements incorporating compliance schedules for district program completion. If the Council suspects that a coastal resource service area will not be able to complete its program within the allotted time, the Department of Community and Regional Affairs may be requested to complete the program. DPDP would assure that DCRA had the necessary funding to do this. (See AS 46.40.170 of ACMA in Appendix 1 for further details.)

District program development efforts have expanded and intensified since the guidelines and standards became effective. As additional funds become available following state program approval by OCZM, coastal resource district residents become more familiar with ACMP, and coastal resource service areas begin to organize, this effort will be expanded even further.

Chapter 4: Areas Subject to the ACMP

Section (a): General

Both state and federal coastal management programs realize that management of coastal areas must extend some distance offshore and some distance onshore. The first and most important question about the extent of the program, then, is the delineation of the boundaries of the coastal area to be managed. Within these boundaries, however, there will be areas which have particularly important characteristics and that deserve special attention in management. The state and federal programs both incorporate this concept. This chapter sets forth how the boundaries of Alaska's coastal zone are determined on an initial and final basis, and also describes how special areas within these boundaries will be identified, designated for special management, and managed.

Section (b): Boundaries for ACMP

Section 305(b)(1) of the Coastal Zone Management Act of 1972 requires the management program for each coastal state to include:

An identification of the boundaries of the coastal zone subject to the management program.

Coastal zone management approval regulations 923.30-923.34 divide the boundaries into four elements: the inland boundary, the seaward boundary, areas excluded from the coastal zone and interstate boundaries (which do not apply to Alaska).

Inland boundaries must include six elements: "those areas the management of which is necessary now or is likely to be necessary in the near future to control uses which have a direct and significant impact on coastal waters,..." plus special management areas, transitional and intertidal areas, salt marshes and wetlands, islands, and beaches.

Seaward boundaries are established as "the three mile outer limit of the United States territorial sea."

To be excluded from state coastal zones are "those lands owned, leased, held in trust, or whose use is otherwise subject solely to the

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discretion of the Federal Government." The federal boundary requirements call for definable geographic boundaries, but the main criterion for determining the boundary is non-geographic, that is, one must forecast likely uses, survey the nature of the coastal zone, and determine a boundary on the basis of a mix of the findings from these efforts. To have done this in detail for the entire 47,000 miles of Alaskan coastal waterfront would have been a massive, and very expensive, undertaking.

The method which was used for determining the ACMP boundaries was to survey the general relationships between the marine environment and the terrestrial environment. These include geophysical relationships such as water flow, salt water intrusion, tidal actions, erosion, wave fetch, salt spray, flooding, storm and tsunami surges and run-up, ice movements, glacial activity and the like. The relationships also include biological links between the marine and terrestrial environments. These include the habits and habitats of anadromous fish, polar bears, sea birds, marine mammals such as walrus and seals, and other animals and plants that have a unique relationship to the land/water area.

With all of these relationships established, the method simply declares that an impact on these relationships could result in an "impact on the coastal waters," but ACMP went further, and declared that an impact on animals using the coastal waters, including anadromous fish, is part of the definition of impact on coastal waters.

The next step was to map these relationships. This was done in Biophysical Boundaries of Alaska's Coastal Zone, a set of 65 maps and commentary produced by the ACMP. This document identifies the "landward and seaward limits of coastal biological and physical processes which must be considered for effective long-term coastal management."

This is accomplished by dividing the coastal zone into two sub-zones. The "zone of direct interaction" is "the portion of the coastal area where physical and biological processes are a function of direct contact between land and sea." "The zone of direct influence" is "the portion of the coastal zone extending seaward and landward from the zone of direct interaction...closely affected and influenced by the close proximity between land and sea." A third "zone of indirect influence" extends outward from the zone of direct influence to the limit of identifiable land/sea relationships.

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The mention of the zone of indirect influence requires discussion of something a little more abstract. The federal coastal zone management requirements call for boundary settings that result in a boundary which will include uses which have a direct and significant impact on the coastal waters; yet, the zone is not to go too far inland. In fact, however, it is possible to imagine activities in any part of Alaska that might eventually have an impact on the coastal waters. So the addition of the zone of indirect influence to the Biophysical Boundaries of Alaska's Coastal Zone recognizes that there are some possible circumstances where an inland event will have impact on the coastal waters, but stops short of including the entire state in the program boundaries. The purpose of including this zone is, in essence, informational. The Alaska Coastal Policy Council selected the line between the zone of direct influence and the zone of indirect influence as the official interim boundary for ACMP, but participants in ACMP should not overlook the third area, and should consider the rationale that led to its establishment.

As an example of how the boundary system works, in the Beaufort Sea region, the zone of direct interaction extends landward to the extent of saltwater intrusion, averaging two to three miles inland, and seaward to the limit of shorefast ice and the shear zone. The zone of direct influence extends from the zone of direct interaction landward to include optimum water fowl and shorebird nesting habitat, and seaward into the ice pack. The zone of indirect influence extends to the limit of the coastal wet tundra ecosystem, corresponding to the 200-foot land contour and seaward to include major circumpolar and circumpacific migration patterns.

The guidelines and standards govern the boundaries of the coastal resource districts. Districts may plan for areas within their political boundaries only. The Alaska Coastal Management Act does not geographically increase the jurisdiction of local governments in Alaska. Initial district boundaries, prior to Council approval of the district program, are the zones of direct interaction and direct influence, as described in Biophysical Boundaries of Alaska's Coastal Zone. Final district boundaries may diverge from the initial boundaries if they:

- (1) *extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have direct and significant impact on coastal waters; and*

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(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands and beaches.

The Alaska Coastal Policy Council, in reviewing district coastal management programs for approval, must find that the proposed final boundaries meet the above criteria. In addition, the Council must find that the final district boundaries are:

sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska Coastal Management Program.

The coastal zone boundaries of state owned land outside of coastal resource districts are determined by administrative order. This order establishes the boundaries as the zone of direct interaction and direct influence.

Federal lands in Alaska are excluded from the coastal zone pursuant to sec. 304(1) of the Coastal Zone Management Act of 1972, which states:

Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

The boundaries shown on ACMP boundary maps were drawn without regard to ownership. Federal land is excluded from state coastal zones by the federal CZMA however, and the maps should not be interpreted to imply inclusion of federal lands in Alaska's coastal zone. Recognition of this exclusion is noted on the maps themselves.

The maps were drawn in this way for two reasons. First, and most importantly, large parcels of federal land will be moving into non-federal ownership as a result of the Alaska Native Claims Settlement Act and the state's entitlement under the Statehood Act. When these transfers occur, certain lands now excluded from the coastal zone by virtue of federal ownership will be added to the coastal zone. The biophysical boundaries are mapped now to guide the state and districts in determining the areas subject to ACMP after future transfers.

Second, federal activities occurring on federal lands which result

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in impact on the state's coastal zone must be consistent with the state coastal zone management program. If a federal agency knows where the biophysical boundary is, it will be easier to determine whether or not a proposed activity will have an impact on the coastal zone, as the boundaries were drawn on the basis of the actual relationships of the coastal lands and waters.

Three additional points should be made to have full understanding of the boundaries. First, Alaska adjoins no other states so no effort is needed to coordinate boundary setting, as required by the federal coastal program approval regulations, although an effort will be initiated with Canada at such time as that nation, or its provinces, should begin a similar effort in coastal zone management.

Second, the three mile limit is indeed the seaward boundary of Alaska's coastal zone, as required by law. However, the various zones shown on the boundary maps often run further seaward than the three mile limit. This is done to show the relationship of offshore areas to onshore areas and the shoreline. The area beyond the three mile limit is excluded under the terms of the U.S. Coastal Zone Management Act, but federal activities taking place on the outer continental shelf should be conducted with the potential in mind for impacts on the areas inside of the three mile limit. A federal activity in the OCS areas which causes impacts on the Alaska coastal zone would have to be consistent with ACMP, at least as far as the impacts are concerned.

Third, the initial boundary maps do show an area on either side of the coastline called the "zone of indirect influence," as discussed above. This should be regarded as primarily informational for ACMP participants. However, the information provided for the zone of indirect influence should be considered in coastal decision-making, as major resource activities (such as large-scale mining or forestry operations) may have impacts of significant effect on coastal waters, and therefore, must conform to provisions of the ACMP. In some cases, the zone of indirect influence may suggest the need to move district boundaries further inland, following more detailed investigation of the land-water relationships.

In general, the ACMP boundary system is designed to concentrate attention in the most critical areas where the need for management is the greatest, and to provide somewhat less attention to areas where

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management is not so critical. This results in a relative decrease in initial management and planning effort as one moves either inland or seaward from the shoreline.

Copies of the boundary maps showing the interim boundaries have been widely circulated, and a full set is not included with this draft of the ACMP program document. At the end of this chapter is an example of what the boundary looks like in the map set. Copies of the maps are available on request from OCM.

Section (c): Special Area Designation and Management in ACMP

The multiple values and uses of all coastal areas, and the inevitable conflicts between various uses and these values, gave rise to coastal management at the state and national levels. The legislation which created both levels of the program declared that within the general coastal areas there would be more specific areas, which had even more value than the coast in general, and that a coastal management program should provide special means to identify and manage these values.

Government at all levels has engaged in special area designation and management for various purposes. ACMP has created two new methods by which special areas may be designated and managed, and there are a number of state and federal programs that now exist for the purpose of identifying, designating, and managing special areas for special reasons. This section will show how these areas are designated and managed for special coastal values in Alaska.

Rationale for Special Area Management

In Alaska, as in other states, much of the coastal area can be managed with only generalized land and water use controls. This in itself is expensive, but the fact that the effort must be spread over the entire coastal area results in an inability to properly recognize and manage (with overall program authorities) certain areas that have unique

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values or fragile characteristics that make them, on balance, more in need of special attention. By adding a special area identification and management element to a state coastal program, the financial and managerial resources of the program may be focused on such areas and detailed management programs may be developed.

The State of Alaska has a number of special area management programs now underway. Until ACMP, however, there has been no single program for identifying and managing special areas for all values. The existing programs in aggregate, however, do address nearly any special value. In addition, local governments also are involved in providing management attention in certain areas, or for certain values.

The identification of special areas is not the exclusive province of the state or local governments. Federal agencies, private organizations, individuals, and other entities may know of special areas, or might seek them out, knowing that a process for accommodating such areas is available.

Finally, special area identification and management should take place in a process which recognizes the other interests which might be affected by such management, assuring that the value of the area is protected without causing other unnecessary impacts.

In light of these considerations, ACMP has been designed to have its own special area identification, designation, and management element, and to be able to participate in similar programs under other authorities.

Special Area Designation in Alaska

There are three methods by which special areas can be designated and managed in Alaska's coastal area. These are:

Method (a): Council approval of special area designations appearing in district coastal management programs as Areas Which Merit Special Attention.

Method (b): Direct designation of special areas as Areas Which Merit Special Attention in the Unorganized Borough by the Council.

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Method (c): Special area designations proposed by state and federal agencies which offer such proposals under authorities other than those provided by the Alaska Coastal Management Act.

Method (a) General Discussion As required by ACMA and the ACMP regulations, districts will designate AMSAs in their programs. Such designations will contain the information called for by 6 AAC 80.160(a), and may be in response to values listed in AS 46.40.210.(1) or 6 AAC 80.160.(b). AMSAs may be proposed in the initial district program submission or in later amendments to the district program. Districts may choose to manage the designated AMSA through their own land use control authorities, or may propose that a different authority be used. If a different authority is used, then whatever procedural steps are required for that authority must be taken before the actual management of the AMSA may begin. Preferably, the additional steps will occur after the Council has acted on the district's AMSA designation. Council action on the district AMSA designation does not supplant whatever additional procedural steps must be taken.

Method (a) Definition of Areas Which Merit Special Attention

The Legislature provided a generic definition of AMSA's in the Alaska Coastal Management Act:

"area which merits special attention" means a delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to council definition of criteria for their identification, include:

(A) areas of unique, scarce, fragile or vulnerable natural habitat, cultural value, historical significance, or scenic importance;

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(B) areas of high natural productivity or essential habitat for living resources;

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon the utilization of, or access to, coastal waters;

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

(F) areas of significant hazard due to storms, slides, floods, erosion or settlement; and

(G) areas needed to protect, maintain, or replenish coastal land or resources including coastal flood plains, aquifer recharge areas, beaches and offshore sand deposits. (AS 46.40.210.(1))

The Council has added three more categories of areas to this listing:

(1) areas important for subsistence hunting, fishing, food gathering, and foraging;

(2) areas with special scientific values or opportunities, including those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(3) potential estuarine or marine sanctuaries.

Method (a) Process for Identification

Identification may come from any source, whether governmental or private. The information required in an AMSA recommendation (or designation) is:

(1) the basis or bases for designation under AS 46.40.210(1) or (b) of this section;

(2) a map showing the geographical location, surface areas and, where appropriate, bathymetry of the area;

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- (3) a description of the area which includes dominant physical and biological features;
- (4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;
- (5) the existing ownership, jurisdiction and management status of adjacent shoreland and sea areas, including existing uses and activities;
- (6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and
- (7) a proposed management scheme, consisting of the following:
 - (a) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;
 - (b) a summary or statement of the policies which will be applied in managing the area; and
 - (c) identification of the authority which will be used to implement the proposed management scheme.

The "management scheme" referred to in (7)(C) above must "preserve, protect, enhance, or restore the value or values for which the area was designated."

Delivery of an identification for method (a) is handled in two ways. If a state agency or private party makes the identification, it is transmitted to the Office of Coastal Management which will assure that the guidelines and standards requirements have been met, and then forward the identification to the local government involved.

The second way is where the local government itself identifies the AMSA, and then the recommendation, along with all the information called for in the ACMP regulations, is included in the program document for the

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district coastal management program.

Additionally, federal agencies may nominate AMSA's under method (a).

Method (a) Designation

The actual designation of the AMSA occurs with the approval of the district program. This, as discussed in Chapter 3, is a complex process which culminates in the legislative approval of the program. It may be said that the legislature is the final authority for designation of the AMSAs identified in district programs.

The designation of AMSAs can also occur by amendments to district programs, and these follow the same approval process as the initial program. Briefly, the process is as follows:

1. The district makes a hearing draft document of the program or amendment available for comment and hearing.
2. The district revises the document and gives it concept approval, and submits it to the Council.
3. The Council approves the program or amendment, after public involvement opportunities, and in so doing may negotiate changes in the document with the district.
4. The document, once fully approved by the Council, is returned to the district for formal approval by district ordinance.
5. The document, now bearing full and formal approval by both the district and the Council, is sent to the legislature for approval.

Method (a) Management

After the AMSA has been approved, then management of the area on behalf of the particular value which led to its designation begins. The plan for this management is part of the AMSA recommendation, and is thus approved along with the designation itself. The management plan may be carried out by either state or local authority, depending on what

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the value of the area is and how it will be used after designation. For example, if an area is determined to have particular value for the recreation of local residents, it might be most appropriate to manage the area through local powers, perhaps acquisition and management as a park. If the AMSA has some value that is important to the state, or to a region larger than the district, then state powers might be more appropriate.

The type and degree of management for an area is decided when the decision is made to establish special management for the area. The state and local decision-makers who are considering an AMSA recommendation will know not only what value is under consideration for protection or utilization, but also exactly how this is to take place. In the past, many special area designation and management programs have been ineffective because the decision-makers, and the public, did not know the effect of the designation decision. In the ACMP AMSA process, the decision is not made until all of the planning is done.

As previously discussed, AMSAs may be designated along with the general approval of a district program, or as a later amendment to a district program. In either case, the management system developed for the AMSA will be devised and approved in the context of the larger program. Thus the effects and impacts of the special area management will be considered at the same time that the uses of the areas around and adjacent to the AMSA are being planned. This will work in the case of AMSA designation by amendment as well, since any change to an existing program should consider the impact of the change on other parts of the program.

Method (b) General Discussion

The Council has provided an additional means by which AMSAs can be designated. Any person may recommend an area in the Unorganized Borough for designation as an AMSA. Any such designation by the Council must contain the information required in 6 AAC 80.160(a). Such recommendations must be submitted to the Office of Coastal Management which must first determine that the information is adequate before presenting the recommendation to the Council. If the Council approves, and designates the recommended place, actual management of the AMSA for the specified uses or purposes cannot begin until the Office of Coastal Management has arranged for an appropriate managing authority, in most cases a state or

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federal agency, and until that authority has taken whatever steps may be required by law to gain the powers needed to effectuate the management scheme for the AMSA. The Office of Coastal Management has no powers to directly manage any area.

Method (b) Definition of Areas Which Merit Special Attention

AMSAs are defined for method (b) in the same way as for method (a).

Method (b) Process for Identification

As indicated above, the process for identifying AMSAs in method (b) is that any person, group, or agency may make an AMSA recommendation directly to the Council. This is done by preparing the same type of information that is required for an AMSA in method (a) and submitting it to the Office of Coastal Management. Recommendations under method (b), of course, may only be made for areas in the Unorganized Borough. When OCM receives a recommendation, it will assure that all the required information is included in the recommendation, and then schedule the matter for Council consideration.

Method (b) Designation

As indicated earlier, designation of AMSAs in the Unorganized Borough where there is no service area is direct by the Council. After the Council has designated the area, arrangements must be made with appropriate state agencies to undertake direct management. This is described below.

Designation will not occur until there have been one or more well-advertised public hearings on the matter, and not until all parties likely to be interested or affected by the designation have been contacted on the matter. The actual amount of time needed, from the point of recommendation to final action by the Council, will vary, depending on the type and complexity of the proposed AMSA.

Method (b) Management

After the Council has designated the AMSA under Method (b), the Office of Coastal Management will arrange for the management of the area with the state or federal agency most appropriate to the purpose. The

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management scheme for the AMSA, which is a part of the designation, would be adopted by the managing agency under its own authority. This adoption process will require additional public review opportunities and hearings. Only after the managing agency takes all steps required by law to adopt the AMSA management plan will actual management begin.

Method (c) General Discussion

The two methods previously discussed are applicable to any of the coastal values listed in the definition of AMSA. Nearly all of these values have been the subject of governmental attention in the past as well as in the present. Method (c) is simply the continued application of these existing government programs, primarily those of the state. The Council can now participate in special area designation in a review and endorsement capacity, and has resolved to do so in the future if Council approval for a special area designation is sought by the agency which operates an existing governmental program for whatever type of coastal value is involved.

Special area proposals offered to the Council by this method are not AMSA proposals, and acquire no authority from the Alaska Coastal Management Act. Endorsement by the Council of such a special area proposal does not supplant any other steps required by law to cause the designation and management of the special area.

Of course, special area designation proposals under method (c) are not obliged to be submitted to the Council except in the sense that the Council is entitled to see special area proposals just as any other person or organization is entitled to public disclosure of governmental intent. OCM, in its capacity with DPDP as the lead agency for ACMP, will monitor all such governmental activity and will review special area proposals for consistency with the ACMP policies.

Definitions of special areas under these other authorities, as well as procedures for identification, designation, and management, all vary with the type of authority involved. The state and local authorities available for special area designation are listed next. For details of definition, identification, designation, and management, the reader should consult OCM or the state agency or local government most directly connected with the authority.

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Tools for Identification and Management (all three methods)

ACMP itself provides considerable authority to local governments to identify and manage special areas. This, in conjunction with existing authorities at the state and local level, amounts to a broad array of agency programs and powers with which to find and manage areas that have particular values. It should be remembered that many such programs are already underway. ACMP can help to coordinate and stimulate these programs.

These are the state and local powers which are available for special area management:

1. State Parks
2. State Recreation Areas
3. State Historical Sites
4. State Game Refuges
5. State Game Sanctuaries
6. State Critical Habitats
7. Estuarine Sanctuaries
8. State Land Classification (for any use)
9. Trading of State Lands
10. Eminent Domain, either at the state or local level
11. Article VII, Section 14, Alaska Constitution, Access to Navigable Waters.
12. Article VIII, Section 14, Alaska Constitution, Access to Navigable Waters.
13. Article VIII, Section 15, Alaska Constitution, No Exclusive Right of Fishery

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14. Local Zoning and and other Development Control Power
15. Endangered Species Protection
16. Department of Transportation and Public Facilities'
17. Airport Zoning Act
18. Alaska Housing Authority
19. Alaska Housing Finance Corporation
20. Alaska Industrial Development Authority
21. General Authority of the Department of Fish and Game to Protect Anadramous Fish Streams
22. Joint Federal-State Land use Planning Commission
23. Alaska Historic Preservation Advisory Committee
24. Alaska International Development Commission
25. Development Cities Act (for creation of new cities)
26. Powers of Cities Outside Boroughs
27. Local Improvement Districts
28. Local Capital Improvement Programs
29. Coastal Energy Impact Program

Existing Special Areas Because of its recent beginnings, no special areas have yet been designated under methods (a) or (b) that is, no AMSAs have been designated under ACMA authority. However, quite a number of areas have been designated other state and federal authorities. A few examples follow:

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1. NAME: Old Sitka State Historical Site
VALUE: Heritage is the primary value with associated scenic and recreation values
ACREAGE: 5
TYPE OF MANAGEMENT: The area is managed as a historic site unit of the Alaska State Park System.
LOCATION: In the City of Sitka, in Southeast Alaska
OWNERSHIP: State
ALLOWABLE USES: Historical interpretation, recreation and scenic uses are allowable. Uses which would adversely affect these values are of the lowest priority.

DISCUSSION:

The site has been leveled by bulldozing and is covered with grass with a few Sitka spruce at the western end of the clearing. Most of the area which was excavated by archaeologists in the 1930s has eroded. Portion of the eastern half of the area has been covered with a gravel parking lot. Surrounding the site are mountain slopes covered with spruce trees and dense undergrowth. The area has a maritime climate with moderate temperatures and high precipitation. The area is located on Starrigavan Bay.

Old Sitka Site represents a first Russian attempt to check England's expansion into North Pacific area commerce. Events that occurred at the site typify a pattern that was repeated in Russian-Native relations. Careful negotiations, sometimes payment for a trading station, native realization and objection to the arrangement, Russian attempts to maintain their presence with a show of force and finally an open conflict. The post was established in July of 1799 and destroyed by Tlingits in June, 1802. Not reoccupied by Russians when they returned to the area in 1804; it was occasionally used as a Native camp and cannery site. During 1934 and 1935 the U.S. Forest Service excavated a portion of this site. The site is a National Historic Landmark. Accessible by road from Sitka and located on Starrigavan Bay, the area represents an important potential coastal recreation resource for local residents and visitors to Sitka.

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2. NAME: Walrus Islands
VALUE: Walrus haulout grounds and other wildlife values
ACREAGE: 8,000
TYPE OF MANAGEMENT: The area is a State Game Sanctuary established by the Legislature in 1960.
OWNERSHIP: State.
ALLOWABLE USES: Generally no use is prohibited outright and oil and mineral exploration and development is allowed, but uses which would adversely affect walrus and other wildlife are of the lowest priority.

DISCUSSION:

In its designation, the legislature found:

(1) the Walrus Islands are the sole remaining place in the state where walruses annually haul out on land and all similar "hauling grounds" in the state which were formerly utilized have been abandoned by walruses due to excessive molestation and slaughter;

(2) the Walrus Islands are uninhabited, and the walruses frequenting them are not required by the state for subsistence utilization;

(3) the Walrus Islands have great importance as a retreat for the Pacific walrus from the standpoints of conservation, scientific value, and tourist interest;

(4) the Department of Natural Resources has taken appropriate action to achieve transfer of title in the Walrus Islands to the state.

3. NAME: Fort Abercrombie
VALUE: Heritage is the primary value with associated recreation and scenic values
ACREAGE: 183
TYPE OF MANAGEMENT: Managed as a historic site in the Alaska State Park System
LOCATION: On Kodiak Island, 3.5 miles northwest of the City of Kodiak

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OWNERSHIP:
ALLOWABLE USES:

State
Recreation and interpretation activities compatible with the Fort's historic values are allowed. Uses damaging to the historic values are of the lowest priority.

DISCUSSION:

Fort Abercrombie is representative of the North Pacific shore defense operations in Alaska established and manned during World War II. The Fort was one of three established to defend Kodiak harbor. The ruins are material evidence of a time that anticipated and witnessed a foreign invasion of American soil (The Japanese occupation of islands in the Aleutians). In 1941 the land was withdrawn for military purposes and that year Headquarters Battery 250th Coast Artillery Regiment was assigned to the post. The post was one of the first radar installations in the area. On October 27, 1970 the site was entered into the National Register of Historic Places. Aside from the historical interest of the site, significant recreational and scenic values exist. Camping, picnicking, hiking, observing nature, and beachcombing are popular activities. The park is heavily visited by Kodiak residents and visitors to Kodiak.

The area is located within a coastal spruce forest area in the northeastern portion of Kodiak Island. The shoreline of the area is comprised of rock blocks with gravel and rock beaches. Nonashka Bay is located to the northwest and Mill Bay on the southeast. Area soils contain a layer of volcanic ash from the 1912 eruption of Mt. Katmai. These soils overlay graywacke rock. Annual average precipitation for the area is 60.54 inches.

4. NAME: Kachemak Bay
VALUE: Shellfish, crab, fish rearing and spawning habitat and waterfowl habitat
ACREAGE: 215,000
TYPE OF MANAGEMENT: Managed as a Critical Habitat, designated by the Legislature in 1974.
LOCATION: On the west side of the Kenai Peninsula near the southern end of the peninsula

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ALLOWABLE USES:

Any use allowed by the ADF&G management plan is allowable. Those of lowest priority are uses which would adversely impact the species for which the area was designated.

DISCUSSION:

Kachemak Bay is one of three special areas in the general area of the bay. This particular area was designated for its habitat values while the other two are designated as state parks. The area in general has been subject to considerable controversy in recent years, primarily as a result of a state petroleum lease sale which was made, and then reversed, with the state buying back the leases.

COASTAL BIOPHYSICAL BOUNDARIES

BERING SEA

BRISTOL BAY-PORT HEIDEN TO CAPE CHICHAGOF

Zone of Direct Influence

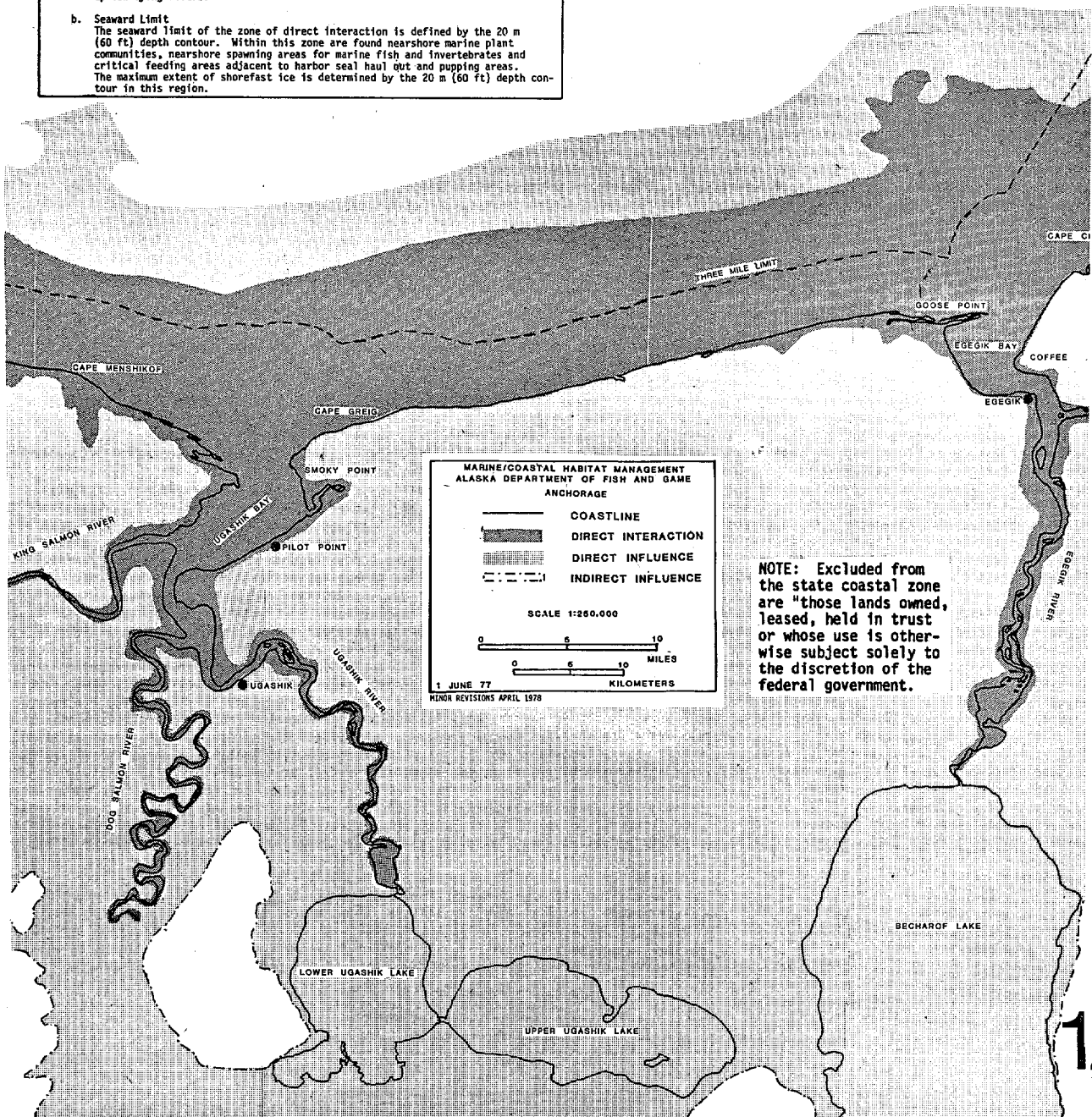
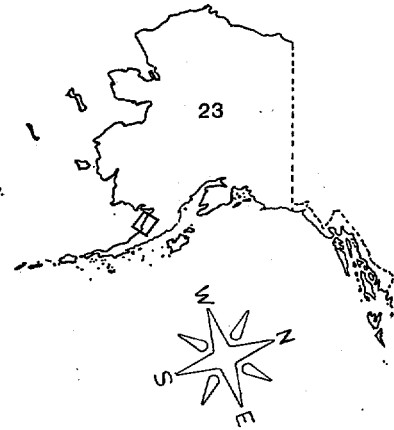
- a. **Landward Limit**
Landward, the zone of direct influence is best defined by the inland extent of coastal wet tundra plant communities located at the 60 m (200 ft) contour. This habitat is important to animals which have a daily or seasonal dependence on the marine environment. The wet tundra environment is physically determined by its close proximity to the sea. Examples of landward direct influences for this region include wetlands used by migrating and nesting waterfowl and denning and foraging areas for coastal mammals.
- b. **Seaward Limit**
Seaward, the zone of direct influence extends to the edge of the continental shelf at approximately the 200 m (600 ft) depth contour. The shelf edge defines the limit of influence of Bristol Bay waters and marks the southern extent of winter ice cover.

Coastal Zone Boundaries

The biophysical boundaries in Bristol Bay between Port Heiden and Cape Chichagof are defined as follows:

Zone of Direct Interaction

- a. **Landward Limit**
Landward, the zone of direct interaction is defined by the inland extremes of wave impact, saltwater intrusion and active coastal erosion. The zone of direct interaction includes intertidal areas, salt spray zones, marine mammal haul out and pupping areas, seabird cliff nesting sites, storm surge lines and the lower reaches of rivers to the extent that they are controlled by tides and saltwater intrusion. Brackish water coastal marshes used by migrating birds also lie within the zone of direct interaction. In this region tidal influence extends as far as 16 km (10 mi) up low-lying rivers.
- b. **Seaward Limit**
The seaward limit of the zone of direct interaction is defined by the 20 m (60 ft) depth contour. Within this zone are found nearshore marine plant communities, nearshore spawning areas for marine fish and invertebrates and critical feeding areas adjacent to harbor seal haul out and pupping areas. The maximum extent of shorefast ice is determined by the 20 m (60 ft) depth contour in this region.



Chapter 5: Uses Subject to the ACMP

Section 305(b)(2) of the Federal Coastal Zone Management Act provides:

The management program for each coastal state shall include...a definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal water.

In addition, 15 CFR Sec. 923.3(g) indicates that the federal Office of Coastal Zone Management will attempt to insure that all uses with direct and significant impacts on coastal waters are addressed by the program.

The ACMP incorporates two distinct definitions of the land and water uses subject to management under its provisions. The first of these applies to the areas for which a district program has not yet been approved. The second will apply to any area for which a district program is in effect. The scope of the program is practically identical under each.

Section (a): Uses Subject to the Program in Areas for Which District Programs Have Not Been Approved

Chapter 6 describes how land and water uses will be managed in areas not yet subject to a district program, through the operation of existing state agency authorities. Until further experience is gained in implementing the ACMP in these areas, it is desirable to extend program management to all of the land and water uses that are subject to state agency approval.

The description of existing state agency land and water use approval authority contained in Chapter 6 reveals the extreme unlikelihood that any activity directly and significantly affecting the coastal water will fail to be subject to at least one of the controls that are described.

Chapter 5: Uses Subject to the ACMP

The comprehensive regulatory authority of state agencies over such matters as water appropriation, waste disposal, air and water quality maintenance, public utilities, and fish and game; together with the state's direct ownership of large areas of the coastal zone, its ability to control the construction of transportation facilities and other infrastructural developments through its spending decisions; and its authority to affect federal clean water permit decisions; gives state agencies a practical veto over any land or water use having a potential negative effect on coastal waters.

In areas for which district programs have not been approved, therefore, the range of uses subject to the ACMP is still sufficiently broad to meet the applicable federal requirements.

Section (b): Uses Subject to the Program in Areas for Which District Programs Have Been Approved

AS 46.40.030(2) requires that each district program include:

a statement, list, or definition of the land and water uses and activities subject to the district coastal management program...

6 AAC 85.070 provides:

Each district program must include a description of the land and water uses and activities which are subject to the district program. The uses and activities mentioned in Ch. 80 of this title are, if applicable subject to the district program.

The uses and activities mentioned in 6 AAC Chapter 80 are the nine categories of uses listed in Article 2 of that chapter, and all activities that might affect the habitats and resources are discussed in Article 3. Because these habitats and resources include all coastal waters, the guidelines and standards require, as a practical matter,

Chapter 5: Uses Subject to the ACMP

that each district program include within its scope all land and water uses significantly affecting the coastal waters. The exact wording will be left to each district, subject to the approval of the Council and legislature, but the required substantive result is clear.

Thus, both before and after the approval of a district program for any area, the land and water uses subject to the ACMP will include all uses having direct and significant impacts on coastal waters. Because this is the broadest coverage of uses envisioned in the federal Coastal Zone Management Act, its requirements in this respect are completely satisfied.

Chapter 6: The ACMP Management System

Section (a): Introduction

The term "ACMP management system" is used to describe the process by which the state and local ACMP programs will be implemented.

Both land and natural resources are managed by regulating their uses. This happens at all levels, but governments, attempting to impose land-use management, have a limited number of options. They fall into three categories: police powers, proprietary powers, and the power inherent in discretionary public spending.

Police power is granted to public agencies to protect the public welfare as it is defined through legislation. Police powers for governing land use are usually exercised by permit systems, land use allocation or zoning, or monitoring and inspection of development. Police power is not limited by ownership of land, except where it is owned by the federal government. And even in this case, there may be some requirements for federal agencies to conduct their developments consistently with local zoning regulations. This is certainly true where the state is also a partner in federal projects such as federally funded buildings or highways which are also sponsored by the state.

The second form of land use power is proprietary. This is the same power held by any land owner, and in Alaska, the state and federal governments own large amounts of land. Local governments also own land and will be obtaining more as land claims are settled and municipalities select the land granted to them under the Mandatory Borough Act. Any coastal management program must address itself to this type of power as well.

In general, proprietary power is usually subordinate to police power. That is, the police power protects the more general public welfare, and proprietary power is exercised to fulfill agency missions within the context of, and consistent with, the police power regulations and laws. In terms of amounts of land owned, the federal government has the bulk of the proprietary power in Alaska. This is changing, but the federal government will remain the largest single landowner in Alaska, and as such, will have considerable ability to impact Alaska's coastal resources. Technically, federally-owned land is "excluded" from Alaska's

Chapter 6: The ACMP Management System

coastal zone under the terms of the federal Coastal Zone Management Act of 1972, and this matter is discussed at greater length in Section (e) of this Chapter. Federal usage of federal land will continue to be a concern of ACMP because of the potential for impact resulting from that usage.

The third type of power is financial. This is the government's ability to influence land use by the direct use of funds, tax incentives, etc., to achieve particular ends. This power also includes the use of public relations and promotional information to influence certain decisions about land or water uses. While financial powers have a narrower impact than police or proprietary powers, they can still have a significant influence on coastal resources, and should be exercised consistently with the goals, policies and rules of a coastal management program.

The key components of the ACMP management system are:

- 1) The Alaska Coastal Management Act (Appendix 1). The Act establishes the program, requires coastal program development by districts, sets up relationships between the districts and state agencies, and provides basic policies and objectives for coastal land and water use management.
- 2) The ACMP Guidelines and Standards: (Appendix 3). These regulations provide further basic rules as to how land and water uses should be managed, and also sets requirements for local coastal program management systems.
- 3) Administrative Order. (Appendix 6). In response to the obligations of the Act and the Guidelines and Standards, the Governor will issue this order to clarify roles and responsibilities among the state agencies and to formally establish the state component of the ACMP management system.
- 4) The approved district coastal program rules and regulations.

The objective of the management system is to assure that all decisions which relate to land and water uses that have a significant impact on coastal resources will be made consistently with the ACMP rules and regulations, both state and local. The rest of this chapter will discuss

Chapter 6: The ACMP Management System

first, the requirements of the federal CZM legislation and regulations; second, how management will occur in areas where district programs have not been approved; third, management of areas where there is an approved district program; and finally, how the federal consistency requirements of the national CZM program fit into the system.

Section (b): Requirements of the Federal CZM Program

Section 305(b) of the Federal Coastal Zone Management Act provides, in part:

The management program for each coastal state shall include...

(4) An identification of the means by which the state proposes to exert control over the land uses and water uses (subject to the Program), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions;...

(6) A description of the organizational structure proposed to implement such management program including the responsibilities and inter-relationships of local, areawide, state, regional, and interstate agencies in the management process...

Section 306(d) of the Federal Act imposes the following requirement:

Prior to granting approval of the management program the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments... has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power:

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple

Chapter 6: The ACMP Management System

interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

Section 306(c)(6) and (7) provide:

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that...

(6) The state is organized to implement the management program...;

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

The regulatory requirements based on these statutory provisions are contained in 15 CFR 923.41 and 923.45.

Section 306(e)(1) of the federal Coastal Zone Management Act provides that each state program must provide for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulations, or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

The specific requirements associated with each of these techniques are set forth in 15 CFR 923.42.

THE ALASKA COASTAL MANAGEMENT PROGRAM

Chapter 6: The ACMP Management System

The preceding chapters have described the scope, development, and policies of ACMP. This chapter describes how state, local and federal agencies will apply the ACMP policies to determine which land and water uses will be permitted in the coastal zone. In so doing, it demonstrates that ACMP fulfills the federal requirements just cited. This chapter also discusses the application to ACMP of the federal consistency requirements contained in Section 307 of the federal Act.

ACMP will rely upon the first two use control techniques set forth in Section 306(e)(1) of the federal Act: local implementation of criteria established and enforced by the state (Section 306(e)(1)(A)); and direct state land and water use regulations (Section 306(e)(1)(B)). In areas for which district programs have not been approved by the Council and the Legislature, state agencies will ensure that uses in the coastal zone comply with the Alaska Coastal Management Act policies and the ACMP Guidelines and Standards through the exercise of their existing regulatory, proprietary, and financial authority, as modified by the Act. In areas for which district programs have been approved, compliance with those programs will be ensured through the exercise of zoning and other use management authority by district governing bodies having such authority. In districts where there is no local use management authority, such as the coastal resource service areas, compliance of uses with the district programs will be ensured through the exercise by state agencies of their regulatory and proprietary authority. In either case, state agencies must comply with the applicable district programs in their land and water use management activities.

Section (c): Management of Uses In Areas For Which District Programs Have Not Been Approved

It was emphasized in Chapter 3 that district programs approved under AS 46.40.060 are the primary elements of ACMP. This is consistent with the conclusion of the legislature that coastal land and water use management is best conducted at the local level.

For many areas, however, district programs will not be approved for a number of months, even years. Until such programs are developed for these areas, coastal land and water uses will be managed in accordance with ACMP policies through the exercise by state agencies of their existing legal authority. To this extent, then, ACMP will rely upon the

Chapter 6: The ACMP Management System

use management technique authorized in Section 306(e)(1)(B) of the federal Act: direct state land and water use regulation.

AS 46.40.200 provides, in part:

State agencies shall, within six months of the effective date of the Alaska Coastal Management Program, take whatever action is necessary to facilitate full compliance with and implementation of the program...

The last two sentences of 6 AAC 80.010(b) provide:

Uses and activities conducted by state agencies in the coastal area must be consistent with the applicable district program and the standards contained in this chapter. In authorizing uses or activities in the coastal area under its statutory authority, each state agency shall grant authorization if, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency finds that the use or activity is consistent with the applicable district program and the standards contained in this chapter.

These statutory and regulatory provisions have the force of law. Their effect is to amend all existing legal authority for state agency action to require that, in addition to fulfilling any other legal criteria, such action must be consistent with the policies of ACMP. In areas for which district programs have not been approved, these policies consist of the policies set forth in ACMA Section 2 and the Guidelines and Standards contained in 6 AAC 80.040-80.150. These policies were discussed in Chapter 2.

In order for the requirements of Section 306(e)(1)(B) of the federal Act and its implementing regulations to be satisfied, state agencies must be able to apply the ACMP policies to any land or water use subject to ACMP, as discussed in Chapter 5, that is proposed for a coastal area for which a district program has not been approved. State agencies must, in particular, have authority to prevent or modify any

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such use that would be inconsistent with ACMP policies. It is plain from the State statutory and regulatory provisions just quoted, that any State agency which is legally required to approve an action before it may be carried out, must deny such approval for an inconsistent action, and thereby prevent it, or require its modification to comply with the ACMP policies. As noted in Chapter 5, the uses subject to management under ACMP in areas for which district programs have not been approved are defined as all uses in the coastal area for which the approval of a State agency is legally required. Thus, State agencies are obliged to apply the ACMP policies to any use subject to their approval in an area for which a district program has not been approved. It should be noted in particular, that this obligation does not depend upon amendment of state agency regulations that were in effect before the enactment of the ACMA and the adoption of the guidelines and standards. 6 AAC 80.010(b), quoted above, directly supplements all existing regulations with the ACMP policies.

State agencies will manage uses in the coastal zone in accordance with the ACMP policies through the exercise of three broad categories of state authority:

- (1) State regulatory authority, exercised primarily through a number of permit systems;
- (2) the proprietary authority of the state over the lands and waters that it owns;
- (3) the authority of the state to expend public funds on uses in the coastal zone.

State Regulatory Authority.

The term "regulatory authority" is here used in a very broad sense to mean the authority of the state to control any public or private activity taking place within its boundaries in the interest of the public welfare. The main vehicle for the exercise of this authority is a variety of state permitting procedures under which persons desiring to carry out certain activities must first obtain the formal approval of designated state agencies. The following are the permit procedures that will be relied upon most heavily in the management of uses under ACMP.

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(1) Air quality control. (AS 46.03.010, 140-170; 18 AAC 15.50) A permit from the Department of Environmental Conservation is required for any air contaminant emission which may be injurious to human health or welfare, to animal and plant life, or to property, or which would unreasonably interfere with the enjoyment of life or property. The term "air contaminant" includes any combination of particulate matter, vapor, gas, and odorous substances.

(2) Solid waste disposal. (AS 46.03.020-100; 18 AAC 15.60) With certain exceptions for very small-scale or on-site disposal operations, no solid waste disposal facility may be operated in Alaska without a permit from Department of Environmental Conservation. Such a permit is also required for the disposal of sludge in or on the lands and waters of the state.

(3) Waste water disposal. (AS 46.03.020-100; 18 AAC 15.70.72) Any operation, with the exception of the discharge of domestic sewage into a sewage system, that results in the disposal of waste-water into or on Alaska land or water, or into a publicly operated sewage system, requires a permit from Department of Environmental Conservation. The term of the permit may not exceed five years. The Department of Environmental Conservation may waive the permit requirement for an activity for which the United States Environmental Protection Agency (EPA) has issued a National Pollutant Discharge Elimination System (NPDES) permit, discussed below.

(4) Construction and operation of sewage systems and treatment works. (AS 46.03.720(a); 18 AAC 72.020-060) No person may construct, modify, or operate a sewage system or treatment works until plans have been submitted to and approved by the Department of Environmental Conservation in writing. The term "treatment works" includes any plant, device, or structure installed for the purpose of treating, neutralizing, stabilizing, or disposing of wastewater and sludge. It includes even such small-scale treatment facilities as septic tanks.

(5) Subdivision plan review. (AS 46.03.020,050,090; 18 AAC 15.72.065) Any person proposing a subdivision in Alaska must submit plans of the subdivision to the Department of Environmental Conservation for approval, unless the subdivision is isolated. An "isolated" subdivision is one that results in five or fewer lots, and that is not part of a plan or scheme involving more than five lots. Local platting authori-

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ties may petition the Department of Environmental Conservation to waive subdivision plan review after providing information about their ordinances, procedures, and resources for regulating sewage treatment and disposal.

(6) Public utilities certificate of public convenience and necessity. (AS 42.05; 3 AAC 48) The issuance of a certificate of public convenience and necessity by the Alaska Public Utilities Commission, Department of Commerce and Economic Development is required before any individual, association, or corporation may own, operate, manage, or control a public utility. Included in the term "public utility" are systems for the transmission or transportation of water, electricity, gas, steam, telecommunications, sewage, and refuse. In deciding between competing applications, the Commission must determine which proposal best satisfies the requirements of public convenience and necessity and which of the applicants is most willing and able to furnish the service.

(7) Appropriation and use of water. (AS 46.15.030-185; 11 AAC 72, 73) All waters occurring in a natural state in Alaska are reserved for the common use of its people, subject to appropriation and beneficial use under permits issued by the Department of Natural Resources. In considering an application for an appropriation permit, the Department of Natural Resources must determine, among other things, whether the proposed use of the water is "beneficial." Under recently promulgated regulations, 11 AAC Part 73, no body of non-marine surface water may be modified without a permit from the Department. This requirement should play an important role in the protection of wetlands.

(8) Anadromous fish protection. (AS 16.05.870; 5 AAC 95.010) No person or agency may construct a hydraulic project or affect the natural flow or bed of a river, lake or stream specified as being important to anadromous fish, or use equipment in such waters, without a permit from the Department of Fish & Game.

(9) Pesticide application. (AS 46.04.320; 18 AAC 15.90) A permit must be issued by the Department of Environmental Conservation before any person may apply pesticide in conjunction with a public pesticide project, to the waters of the state, or by an airplane or a helicopter. A "public" pesticide project is one affecting properties owned separ-

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ately by two or more persons and which is participated in by the state or a municipality.

(10) Drilling or deepening of oil and gas wells. (AS 31.05.010-110; 11 AAC 22.005-570) A permit from the Department of Natural Resources is required for the drilling or deepening in Alaska of any well for oil or gas, or for stratigraphic information. A permit may be required for wells having other purposes if the state Oil and Gas Conservation Committee finds a sufficient likelihood of an unexpected encounter of oil, gas, or other hazardous substances.

(11) State game sanctuaries. (AS 16.20.090-140,160-170,255; 5 AAC 81.050) A permit from the Department of Fish & Game is required for access to and for any activity taking place in the McNeil River and Walrus Island State game sanctuaries.

(12) Fish and game critical habitat areas. (AS 16.20.230) A permit from the Department of Fish and Game is required for any work or development within the statutorily designated state fish and game critical habitat areas.

(13) State game refuges. (AS 16.20.010,030) No work or development may take place within the statutorily designated State game refuges except under a permit from the Department of Fish & Game.

(14) Utilities within highway rights-of-way. (AS 19.25.010; 17 AAC 15) No utility may be placed or maintained under, on, in, or over a state highway right-of-way without a permit from the Department of Transportation & Public Facilities. "Utilities" for this purpose include railroads, public utilities, publicly owned fire and police signal systems, and street lighting systems. A permit is also necessary for modification of such utilities.

(15) Encroachments on state and federally-funded highways. AS 19.25.200; 17 AAC 10.010) The placement, modification, or maintenance of an encroachment across or along a state highway, or a highway funded in whole or in part by federal funds, may be carried out only under a permit issued by the Department of Transportation and Public Facilities.

(16) Certificate of Reasonable Assurance for Proposed Discharges into Navigable Waters (Federal Water Pollution Control Act Section 401)

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A wide variety of discharges of dredge and fill material and wastes into navigable waters, including wetlands, are subject to federal permit under sections 402 and 404 of the Federal Water Pollution Control Act (FWPCA). Such permits may not normally be issued unless the state in which the discharge would take place issues a Certificate of Reasonable Assurance under FWPCA Section 401. This certificate states that the proposed discharge would comply with certain provisions of the FWPCA. More importantly, for purposes of ACMP, FWPCA Section 401(d) provides that the certificate shall set forth any limitations and monitoring requirements necessary to assure compliance with "any ... appropriate requirement of State law," and that these limitations and monitoring requirements shall thereupon become conditions of the federal permit.

The capacity of these procedures for ensuring compliance with the ACMP policies is derived from the obligation of the agencies administering them to deny approval where issuance would be inconsistent with those policies. This is true even for permits that have, in the past, been granted or denied on the basis of fairly specialized criteria. For example, it is no longer sufficient for the Department of Natural Resources, in its consideration of an application for a water use permit, to take account only of such factors as the capacity of the water source to accommodate the proposed appropriation and the effect it would have upon the rights of prior appropriators. The Department of Natural Resources must now, in addition, consider such matters as whether the use depending upon the appropriation is water-dependent or water-related, and whether it would eliminate opportunities for subsistence usage of local resources. Similarly, the Public Utilities Commission must now incorporate the ACMP policies into its concept of the "public convenience and necessity," the touchstone for the authorization of public utilities. Thus, if the only prospective user of a proposed electric line would be a planned major non-water-dependent development on the shorelines that could readily be located elsewhere, the Public Utilities Commission would be obliged to deny a certificate of public convenience and necessity, even if the applicant was willing and able to provide the proposed service, and the service would be fully utilized by the proposed development.

State agencies also have regulatory authority that has not, as yet, been embodied in established permit procedures. Very broad authority for the regulation of a wide range of activities appears in the

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general statutes establishing the Department of Environmental Conservation (AS 46.03.020), Department of Transportation and Public Facilities (AS 44.42.020), and Department of Fish & Game (AS Title 16). Under the ACMA and the guidelines and standards, agencies possessing such authority are obligated to use it to ensure implementation of the ACMP policies.

One example of a general grant of regulatory authority that has not yet given rise to a permit system, but which has much potential for ensuring compliance with the ACMP policies, is the general authority of the Department of Natural Resources over all mining in the state. AS 27.05.010 provides that the Department of Natural Resources "has charge of all matters affecting exploration, development and mining of the mineral resources of the state..." If it were to prove necessary, the Department of Natural Resources could explore an expansion of its regulatory activities on the basis of this very broad statutory language.

State Proprietary Authority.

The State of Alaska itself owns a considerable part of the land in the coastal zone, including almost all tidelands and submerged lands. As owner of this property, the state is authorized to regulate and prohibit land and water uses within it more intensively and with more discretion than is the case for uses outside state lands.

The proprietary authority of the state over its lands is exercised through a series of leasing systems and permit procedures administered by the Department of Natural Resources. The coverage of these is so comprehensive that it can be said with assurance that, as a legal matter, no activity may take place on state-owned lands without the express or implied consent of the Department of Natural Resources.

By far the most important leasing and proprietary permit systems for purposes of ACMP are those governing the use of tidelands and submerged lands. These include all lands lying between the mean high tide line and the three-mile limit. There are three separate systems for the leasing of tidelands and submerged lands:

1. Leasing for purposes other than for the extraction of natural resources (AS 38.05.070; 11 AAC 62);

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2. Leasing for the extraction of offshore locatable minerals other than oil and gas (AS 38.05.145; 11 AAC 84,86,88);

3. Oil and gas leasing (AS 38.05.145, 180; 11 AAC 82,82,88).

Two permit systems govern uses in tidelands and submerged lands:

1. Tidelands and submerged lands general use (AS 38.05);

2. Offshore locatable mineral prospecting (AS 38.05.145; 11 AAC 82,84,86,88).

These tidelands and submerged lands permit and leasing systems, like the permit and leasing systems for all other state-owned lands, must be administered in a manner that ensures compliance of all uses subject to those systems with the ACMP policies. The Department of Natural Resources must deny leases and permits that would authorize uses violative of those policies, and must attach conditions to permits and leases that are granted when necessary to assure compliance with ACMP policies.

State Spending Authority

The state, as well as other levels of government, may have substantial influence on coastal resources by considering the goals of coastal management when government-controlled funds are spent. The state sponsors a great deal of coastal development directly, with the use of state money and federal money made available for state use. The state constructs highways, ferry terminals, airports, small boat harbors, commercial and industrial harbor facilities, and public buildings. In addition, the state provides funding for public facilities that can stimulate and encourage private development. The construction of sewage treatment plants, roads, electrical services and other utilities can have a large impact on the type and speed of private development. Thus, state spending can result in impacts far in excess of the scope of the initial development.

By subjecting spending decisions to ACMP policies and regulations, the state assures that its own actions will not cause unnecessary damage to the coastal resources, and reinforces the ACMP regulatory authority.

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Like other state actions, spending decisions are subject to AS 46.35.090, 100, and 200, as well as 6 AAC 80.010 (b), and thus must be consistent with the ACMP policies and regulations.

The two primary means that will be used to assure that state spending decisions will be made consistently with ACMP are the state budgeting process and the A-95 Clearinghouse.

State Budgetary Process

State agency budgets are prepared annually, and in the case of the Department of Transportation and Public Facilities, there is a six-year capital improvements program that provides additional guidance to the capital budget. Both the general budget and the six-year capital improvements program are approved by the legislature, so consistency at the highest level of policy is assured as the legislature also approves all substantive elements of ACMP.

Consistency is also provided at the administrative level. When all state agencies have prepared their individual budgets, these are aggregated for refinement and joint presentation to the legislature by the Governor. This refinement process is carried out by the Division of Budget and Management, an arm of the Office of the Governor. Aside from seeing that agency budgets are properly prepared, that division also assures that the budgets properly respond to state policy, and makes recommendations to the Governor with regard to the size of agency budgets and level of service.

A special device, the Budget Review Committee, is called into the process at budget preparation time. The group includes the Commissioner of the Department of Revenue, the Director of the Division of Budget and Management, the Director of the Division of Policy Development and Planning, and the Administrative Assistant to the Governor. This group makes the final budget recommendations to the Governor.

The Director of the Division of Policy Development and Planning is also charged with monitoring state and federal consistency for ACMP. Thus, the Division of Policy Development and Planning director's role on the Budget Review Committee will, among other things, be to assure that agency budget submissions are consistent with ACMP. This is an added measure of protection for ACMP, since the Division of Budget and Management shares the same responsibility.

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A-95 Clearinghouse

The A-95 Clearinghouse review system is another means to assure that state spending decisions will be consistent with ACMP. First, all federally-funded projects are subject to A-95 review, and most state projects are as well. Second, the clearinghouse operates within the Division of Policy Development and Planning, which provides a direct method of assuring consistency. The use of the A-95 process is important because the review of spending proposals is wide, and an effort is made to determine and notify all parties who might be affected by the proposal. Further, there is more information in clearer format in the A-95 notice than in a budget proposal. Also, the A-95 review usually occurs earlier in the history of a project than does the approval for budgeting purposes. This provides a double consistency check for capital projects.

Conflict Resolution

The Federal Act and its implementing regulations require that each state that adopts a program have the authority "to resolve conflicts among competing uses." In areas for which district programs have not yet been adopted, the state will assure such conflict resolution through a number of mechanisms:

(1) Public notice, comment, and hearing on applications for permits and leases. The permit and leasing systems described above incorporate some provision for public notice of pending applications and an opportunity for interested persons to comment on those applications before the agency makes a final decision. Some of the procedures even include an opportunity for public hearings. Agencies must evaluate and consider comments on pending actions.

The submission of comments and participation in hearings on permit and lease applications are the most effective ways in which persons supporting or opposing a proposed use can assure that their views are taken into account. Such participation brings to the agency's attention the fact that a dispute over the proposed use does exist and, if the participation is sufficiently active, provides a basis on which the agency can resolve the dispute.

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Because the ACMP policies are among the requirements that must be satisfied before a permit or lease may be issued, the extent to which a proposed use would comply with those policies is a proper subject for comment or testimony during the agency's consideration of an application.

The Administrative Order will require that affected local governments and the public in general, be notified in a timely manner of any pending application for a state permit.

(2) The A-95 Review System. (discussed earlier in this Chapter).

(3) Intervention by the Office of Coastal Management, the Council and the Governor. Under 6 AAC 80.030(a)(3), the Office of Coastal Management and the Council are authorized to review state, as well as federal, actions for consistency with the ACMP policies. While no remedies for noncompliance are specifically provided in the regulation, the Office of Coastal Management and the Council will attempt to correct such situations by informal means. If these should fail, it will be necessary to invoke the provision of the Administrative Order under which the Governor reserves authority to arbitrate disputes among agencies, and to intervene in the event an agency fails to be consistent with the ACMP.

(4) Judicial Review. The ACMP policies are prescribed by statute and regulation, and therefore have the force of law. Their violation thus provides a ground for judicial reversal of a state agency action. As a result, a person who is dissatisfied by the outcome of the conflict resolution procedures just discussed may resort to a state court as the ultimate forum for determining the requirements of the ACMP policies in a particular situation.

The Alaska Administrative Procedure Act, AS 44.62, provides explicitly for judicial review of agency actions that are taken under its provisions. The Alaska Supreme Court has not, however, considered such express statutory grants of jurisdiction to be pre-requisite to judicial review of agency action. It has, in fact, reviewed at least one action that a statute had purported to render nonreviewable. The court appears to consider the availability of some judicial review of any agency action to be a right of constitutional dimensions. See Alyeska Ski Corporation v. Holdsworth 426 P.2d 1006 (Alaska 1967); 486 P.2d 351 (Alaska

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1971). It has probably been much more liberal in this respect than most other American courts, whether state or federal.

State Acquisition of Interests in Land and Water

While state agencies have the authority to acquire land by eminent domain, the use management authorities described above are sufficiently comprehensive and binding that the acquisition by the state of interests in land and water is not necessary for the achievement of the program's management objectives. As will be discussed in Chapter 7, however, the state's eminent domain authority will be relied upon to assure that uses of state concern are not arbitrarily excluded from coastal areas in municipalities that have not yet developed their district programs.

Section (d): Management of Use In Areas For Which District Programs Have Been Approved

After a district program has been approved by the Council and the legislature, the management of land and water uses in the district's coastal zone becomes subject to a new combination of procedures and criteria. This new management system combines direct state land and water use regulation, provided for in Section 306(e)(1)(B) of the Federal Act, and local implementation of state criteria and standards, subject to state-level review, provided for in 306(e)(1)(A).

Upon final approval of a district program by the legislature, that program becomes an integral part of ACMP. Its criteria and standards thus become a matter of state, as well as local, policy. AS 46.40.100(a) provides:

Municipalities and state agencies shall administer land and water use regulations or controls in conformity with district coastal management programs approved by the council and legislature and in effect.

Under this provision and those that will be discussed immediately below, the district programs assume an authority equal to that of the guidelines and standards, which, for some purposes, they entirely supersede.

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Under AS 46.40.090(a), a district program that is approved for a district that does not exercise zoning or other controls over its coastal resources must be implemented by state agencies. For these areas, most of which will be coastal resource service areas in the Unorganized Borough, management of uses subject to the program will continue to take the form of direct state regulation. In carrying out their duties, the agencies will have at their disposal the full array of management techniques described in the preceding section. They will continue to operate under the principle set forth in 6 AAC 80.010(b):

Uses and activities conducted by state agencies in the coastal area must be consistent with the applicable district program and the standards contained in this chapter. In authorizing uses or activities in the coastal area under its statutory authority, each state agency shall grant authorization if, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency finds that the use or activity is consistent with the applicable district program and the standards contained in this chapter.

Thus, in districts lacking their own use control authority, the primary change in the ACMP use management structure that will result from approval of the district program will be the new obligation of state agencies to comply with the district program as well as the ACMA policies and the guidelines and standards. It should be noted that 6 AAC 80.010(b) departs from AS 46.40.090(a) and AS 46.40.100 in requiring consideration of the guidelines and standards as well as the district program: the ACMA provisions would have required compliance with the district program alone, even if the result in any particular instance would be inconsistent with the guidelines and standards.

Because 6 AAC 80.010(b) was itself approved by the legislature, it should be considered to amend the ACMA in this respect.

There is one source of authority in addition to those described in the preceding chapter that may assume special prominence in the implementation of district programs by state agencies in the Unorganized Borough and third class boroughs. This is the authority of the Department of Natural Resources, Division of Lands, to adopt zoning regulations, subject to approval by the legislature, for the Unorganized

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Borough and for the coastal areas of those third class boroughs which have not adopted such regulations themselves. While this zoning authority has been little used up to now, its utilization may be necessary if district programs for areas lacking local zoning authority are to be effectively implemented.

AS 46.40.090(b) provides that a coastal resource district exercising zoning and other use controls within the coastal zone shall implement its own approved district program. In these districts, the management of land and water uses will thus take the primary form of local implementation of state standards subject to state-level review, as authorized by Section 306(e)(1)(A) of the CZMA. While the exercise of local zoning authority will be the main vehicle for implementation of these district programs, it must be emphasized that the state land and water use management activities described above will co-exist with and supplement local management measures.

An important distinction between state and local management of uses in areas for which district programs have been approved concerns the standards that must be adhered to in the authorization of uses. As was noted above, state agencies must comply with both the applicable district program and the guidelines and standards, due to the language of 6 AAC 80.010(b). There is, however, no comparable regulatory provision governing local government activities. Thus, they continue to be subject to the second sentence of AS 46.35.090(b) and to AS 46.35.100, requiring consistency only with the local plan. This seems to mean that a local government implementing its own district program must adhere to the provisions of that program in all cases, even if this should, in certain rare sets of circumstances, result in actions that would have been inconsistent with the guidelines and standards. Because the state management authorities discussed above will continue to apply in districts implementing their own district programs, and because state agencies would be allowed to authorize only those uses that are consistent with both the district programs and the guidelines and standards, activities inconsistent with the guidelines and standards should rarely, if ever, be allowed.

The main device for conflict resolution in areas for which district programs have been approved is provided for in AS 46.40.100(b)-(e). Under these provisions, a district, a citizen of a district, or a state agency may submit a petition to the Council showing that a district

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program is not being implemented, enforced, or complied with. The Council must thereupon hold a public hearing under the Administrative Procedure Act, AS 44.62, to consider the matter. After the hearing, the Council may direct the responsible district or state agency to take any action that the Council considers necessary to implement, enforce, or comply with the district program. Such orders of the Council may be enforced in the state Superior Courts.

In view of 6 AAC 80.010(b), discussed above, the Council is probably not authorized to issue, or the courts to enforce, an order to a state agency to comply with a local program when this would entail violation of the guidelines and standards. A provision that might accomplish the same result in the case of local governments, despite the fact that other parts of the ACMA seem to require strict adherence to the district programs alone, is AS 46.40.100(c). This states that, after the hearing on a petition of the kind just described, the Council shall find in favor of the local government if:

(1) zoning or other regulations have been adopted and are being enforced;

(2) variances are being granted according to procedures and criteria which are elements of the district coastal management program, or the variance is otherwise approved by the Council ; and

(3) procedures and standards adopted by the coastal resource district as required by this chapter or by the guidelines and standards adopted by the Council and subsequently approved by the Legislature have been followed and considered.
(emphasis added)

Thus, as a practical matter, local governments as well as state agencies may be obliged to continue compliance with the guidelines and standards even after the approval of an applicable district program.

The conflict resolution procedures available in areas where district programs have not yet been approved will continue to be available after district program approval. The most significant change in the application of the procedures will be the addition of the applicable district programs to the guidelines and standards as criteria for conflict resolution.

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Section (e): Federal Consistency

The procedures contained in this section are the choices that the State of Alaska has made within the limits of 15 CFR Part 930, Federal Consistency With Approved Coastal Management Programs. In order to prevent confusion and to minimize delays, the state will use existing federal/state coordination mechanisms to the maximum extent practicable.

The Division of Policy Development and Planning in the Office of the Governor (DPDP) is the lead agency designated pursuant to 15 CFR 923.53(a)(1) and 15 CFR 930.18.

For federal consistency purposes, the coastal zone consists of the seaward limit of the territorial sea and the landward limit of the zones of direct influence and direct interaction, as contained in The Biophysical Boundaries of Alaska's Coastal Zone, (ACMP, 1978). Federal lands are excluded from the coastal zone, but activities on federal lands that significantly affect the coastal zone must be consistent with the ACMP.

The zones of direct interaction and direct influence run beyond the three mile limit on the seaward side on many of the boundary maps. This information is included because, while the area seaward of the territorial sea is legally excluded from Alaska's coastal zone, there is a potential for impacts to occur within the zone which would result from activities occurring on the seaward, or excluded, side of the three mile limit. Federal activities seaward of the three mile limit which have impacts inside the three mile limit must be consistent with ACMP, at least as far as the impacts are concerned. DPDP will also monitor activities outside of these zones which may have a direct effect on the coastal zone.

Four types of federal functions are discussed in this chapter:

1. Federal activities
2. Federal licenses and permits
3. OCS plans
4. Federal assistance programs

The federal regulations cited above provide detailed procedural requirements for administration of the consistency aspects of approved coastal programs. The following summary is provided for the convenience of the reader:

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Federal Activities

Sections 307(c)(1) and (c)(2) of the Coastal Zone Management Act state respectively that:

Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

Any federal agency which shall undertake any development project in the coastal zone of a state shall ensure that the project is, to the the maximum extent practicable, consistent with approved state management programs.

As used in this section, "federal activity" means:

...any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities.

It includes federal development projects, but does not include the issuance of a license or permit to a nonfederal applicant or the granting of assistance to an applicant agency. Federal agency issuance of a permit to another federal agency is considered a federal activity.

The state A-95 Clearinghouse, located within DPDP, will be the notification point for all federal activities directly affecting the coastal zone and all federal development projects in the coastal zone. In most cases, the state clearinghouse is routinely notified of proposed actions of federal agencies. The A-95 process will be used by DPDP to gather comments of state agencies and local governments on the federal agency's proposed activity and consistency determination.

15 CFR 930.21(b) defines "activities which significantly affect the coastal zone" as "those actions that cause significant

- 1) changes in the manner in which land, water or other coastal zone natural resources are used;*
- 2) limitations on the range of uses of coastal zone*

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natural resources; or

3) changes in the quality of coastal zone natural resources.

Activities meeting the criteria of 15 CFR 930.21(b) or 15 CFR 930.31(b) will be reviewed by DPDP for consistency with the ACMP. More refined lists of agency activities will be worked out in agreements between DPDP and the individual federal agencies.

The process for the review of federal activities is:

- 1) The federal agency submits a consistency determination along with notification of the proposed federal activity to the state clearinghouse.
- 2) Using established clearinghouse procedures, state agencies, including DPDP and local governments which might be affected by the federal activity, will be notified and asked to submit comments within thirty days to the state clearinghouse.
- (3) DPDP will analyze comments received from the clearinghouse and will recommend concurrence with or objection to the federal agency's determination of consistency to the director of DPDP. Any recommendation to object will include reasons and suggested changes that could allow the federal activity to be conducted consistent with the ACMP.
- (4) Within 45 days of clearinghouse notification, DPDP will respond in writing to the federal agency informing the agency of its finding, along with a statement that clearinghouse requirements have been met.

Federal Licenses and Permits

Federal agencies issuing licenses or permits to nonfederal applicants for proposed activities in the coastal zone may do so only for activities that will be conducted in a manner consistent with the approved state coastal management program.

A summary of the procedures that DPDP will use for review of federal license or permit activities is:

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- 1) Applicant submits the license or permit application and consistency certification to the federal agency and to DPDP. The "consistency certification" certifies that proposed license or permit activity will be carried out in a manner consistent with the approved ACMP.
- 2) DPDP insures timely public notice of the project or activity pursuant to 15 CFR 930.61, (This division will attempt to establish agreements with relevant federal agencies for the publication of joint public notices.) DPDP, at its discretion, may hold one or more public hearings on the proposed license or permit activity in accordance with 15 CFR 930.62 and AS 44.62, the Administrative Procedures Act.
- 3) DPDP circulates the application and certification to affected state agencies and local governments and collects comments.
- 4) The staff of DPDP reviews the comments, and recommends concurrence with or objection to the applicant's consistency certification to the director of the division. Any recommendation to object will include reasons and suggested changes which would allow the proposed project or activity to be conducted in a manner consistent with the ACMP.
- 5) DPDP responds in writing to the federal agency and the applicant informing them of its findings. In accordance with 15 CFR 930.63(b) and (c), DPDP responds at the earliest practicable time. If no decision has been reached within three months, DPDP reports on progress and the reason for delay. DPDP will make a finding within six months of initial receipt of the federal license or permit application and consistency certification, or the state may be presumed to have concurred with the certification.
- 6) In the event of a dispute, DPDP initiates negotiations between disagreeing state and federal agencies and, if necessary, the applicant. Mediation procedures will follow the process detailed in 15 CFR 930, Subpart G.

The federal licenses and permits that DPDP will review for consistency with the ACMP are:

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Department of Agriculture, U.S. Forest Service

- 1) Permits for water easement of USFS lands.
- 2) Permits for construction on USFS lands.
- 3) Special use permits meeting the criteria of 15 CFR 930.21(b).

Department of Commerce, Office of Coastal Zone Management

- 1) Permits within Marine Sanctuaries under 33 USC 1401-1444.

Department of Defense, Army Corps of Engineers

- 1) Permits under Sections 9 and 10 of the Rivers and Harbors Act, authorizing the construction of bridges, causeways, dams and dikes, and the obstruction of navigable waters.
- 2) Permits under Section 4(F) of the Outer Continental Shelf Lands Act and amendment, authorizing artificial islands or fixed structures on the OCS.
- 3) Permits under Section 103 of the Marine Protection Research and Sanctuaries Act, authorizing ocean dumping outside the limits of the territorial sea.
- 4) Permits under Section 404 of the Federal Water Pollution Control Act, authorizing discharges into navigable waters (also subject to state certificate of reasonable assurance, FWPCA Section 401).

Department of Energy, Federal Energy Regulatory Commission

- 1) Permits and licenses for the construction and operation of non-federal hydro-electric power developments and associated transmission lines under Section 4(e) of the Federal Power Act and amendments.
- 2) Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate and terminal facilities under Section

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7(c) of the Natural Gas Act of 1938.

Department of Energy, Economic Regulatory Administration

- 1) Permits for construction and operation of facilities to export natural gas.

Environmental Protection Agency

- 1) Permits required under Section 402 (NPDES) of the 1972 Federal Water Pollution Control Act and amendments, authorizing discharge of pollutants into navigable waters. (also subject to state certificate of reasonable assurance, FWPCA Section 401).
- 2) Permits required under Section 405 (NPDES) of the 1972 Federal Water Pollution Control Act and amendments, authorizing disposal of sewage sludge.
- 3) Permits for new sources or for modification of existing sources and waivers of compliance allowing extensions of time to meet air quality standards under Section 112(c)(1) of the 1972 Clean Air Act.
- 4) Exemptions granted under the Clean Air Act for stationary sources.

Department of the Interior

- 1) Permits and licenses for drilling and mining and related facilities on public lands.
- 2) Permits for pipeline rights-of-way on public lands and the Outer Continental Shelf.
- 3) Permits and licenses for rights-of-way on public lands.

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- 4) Permits and licenses required for drilling and mining on OCS lands (BLM).

Nuclear Regulatory Commission

- 1) Permits and licenses for the siting, construction and operation of nuclear facilities.

Department of Transportation, U.S. Coast Guard

- 1) Permits for construction or modification of bridge structures and causeways across navigable waters.
- 2) Permits for siting, construction and operation of deepwater ports.

General

- 1) Licenses and permits subject to 15 CFR 930.54.

OCS Activities

Section 307 (c)(3)(B) of the Coastal Zone Management Act states that each activity which is described in detail in a plan for the exploration or development of, or production from, any lands leased under the Outer Continental Shelf Lands Act (43 USC 1331, et seq.) will be carried out in a manner consistent with a state's approved management program. No federal official or agency may issue a license or permit for any activity described in detail in an OCS plan until the state concurs with the consistency certification of the plan describing such activities, or until the Secretary of Commerce finds that each activity described in detail is consistent with a state's program or is otherwise necessary in the interest of national security. Exempt from consistency review, however, is the leasing process prior to issuance of the lease.

Pursuant to 30 CFR 250.34, a system was established between the U.S. Geological Survey and the State of Alaska for state agencies, including DPDP, to review OCS plans. USGS sends copies of reports it received for OCS lands lessees to affected state agencies, which in turn send comments through DPDP back to the USGS. This procedure may or may not change by virtue of the new amendments to the OCS Lands Act.

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With the addition of a consistency certification for each activity in detail in an OCS plan, DPDP will concur with or object to consistency certification after comments are received on the OCS plan from state agencies and local governments. Recommendations are then made to the director of DPDP, and a letter sent to the USGS from DPDP concurring with or objecting to the consistency certification. Objections will be accompanied by the state's reasons and suggested changes that would allow the license or permit activities to be conducted in a manner consistent with the ACMP. The provisions for public notice (15 CFR 930.61), public hearings (15 CFR 930.62), and earliest practicable review and notification by the state (15 CFR 930.63) also apply to OCS plans describing in detail federal licenses and permit activities.

Federal Assistance and Programs

Section 307(d) of the Coastal Zone Management Act states that state and local governments applying for federal program assistance for coastal zone activities shall indicate the views of appropriate state or local agencies on the relationship of such activities to the approved coastal management program. Federal agencies may not approve proposed assistance programs which are inconsistent with the approved coastal management program.

The State A-95 Clearinghouse insures that appropriate state and local agencies or entities are notified of applications for federal assistance. DPDP will use this process for review of federally assisted projects in Alaska's coastal zone.

The procedures for review of federally assisted projects are:

- 1) The applicant sends to the clearinghouse the application for federal assistance and a certification that the project being undertaken is consistent with the ACMP.
- 2) Using established clearinghouse procedures, state agencies, including DPDP, and local governments in the area to be affected by the proposed project, are notified and asked to submit comments within thirty days to the state clearinghouse.
- 3) DPDP staff analyzes comments received through the clearinghouse and recommends concurrence with, or objection to, the

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applicant's consistency certification to the director of the division. Any recommendations to object will include the reason, and suggested changes which would allow the proposed project to be conducted in a manner consistent with the ACMP.

- 4) Within 45 days of clearinghouse notification, DPDP responds in writing to the federal agency and the applicant informing them of its finding, along with a letter stating that clearinghouse requirements have been met.

Federal grant programs subject to review include:

Department of Agriculture

- 10.405 Farm Labor Housing Loans and Grants
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans (exception: loans to grazing associations to develop additional pasturage and loans for purchase of equipment)
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Development Loans
(Exception: loans to rural small businesses having no significant impact outside community in which located.)
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.658 Cooperative Forest Insect and Disease Control
- 10.901 Resources Conservation and Development (Exception: small projects costing under \$7500 for erosion and sediment control and land stabilization and for rehabilitation and consolidation of existing irrigation systems.)
- 10.904 Watershed Protection and Flood Prevention

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Department of Commerce

- 11.300 Economic Development-Grants and Loans for Public Works and Development Facilities
- 11.304 Economic Development-Public Works Impact Projects (Procedural variation)
- 11.305 Economic Development-State and Local Economic Development Planning
- 11.306 Economic Development-District Operational Assistance
- 11.307 Economic Development-Special Economic Development and Adjustment Assistance Program
- 11.308 Grants to States for Supplemental and Basic Funding of Title I, II, and IV Activities (Basic grants only)
- 11.405 Anadromous and Great Lakes Fisheries Development
- 11.407 Commercial Fisheries Research and Development
- 11.418 Coastal Zone Management Program Administration
- 11.420 Coastal Management - Estuarine Sanctuaries
- 11.421-424 Coastal Energy Impact Program

Department of Defense

- 12.101 Beach Erosion Control Projects
- 12.106 Flood Control Projects
- 12.107 Navigation Projects
- 12.108 Snagging and Clearing for Flood Control

Department of Health, Education and Welfare

- 13.237 Mental Health-Hospital Improvement Grants
- 13.240 Mental Health-Community Mental Health Centers
- 13.261 Family Health Centers
- 13.286 Limitation on Federal Participation for Capital Expenditures
- 13.340 Health Professions Teaching Facilities-Construction Grants
- 13.369 Nursing School Construction - Loan Guarantees and interest Subsidies
- 13.378 Health Professions Teaching Facilities - Loan Guarantees and Interest Subsidies

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- 13.392 Cancer-construction
- 13.408 School Assistance in Federally Affected Areas-Construction
- P.L. 93-318 (Section 161) Construction of Academic Facilities
- P.L. 93-641 (Section 1516) Planning Grants to Health Agencies; (Section 1601 et seq., Title XVI Public Health Service Act) Assistance for moderation, construction or conversion of medical facilities. These programs will replace Catalog 13.206, 13.220, 13.249, and 13.253.

Department of Housing and Urban Development

- 14.001 Flood Insurance (applications for community eligibility)
- 14.146 Public Housing-Programs (New construction and acquisition)
- 14.203 Comprehensive Planning Assistance
- 14.207 New Communities-Loan Guarantees
- 14.218 Community Development Block Grants-Entitlement Grants
- 14.219 Community Development Block Grants-Discretionary Grants
- 14.702 State Disaster Preparedness Grants

Department of the Interior

- 15.350 Coal Mine Health and Safety Grants
- 15.400 Outdoor Recreation-Acquisition, Development and Planning
- 15.501 Irrigation Distribution System Loans
- 15.503 Small Reclamation Projects
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.904 Historic Preservation

Department of Transportation

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Beautification-Control of Outdoor

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- Advertising, Control of Junkyards, Landscaping and Scenic Enhancement
- 20.500 Urban Mass Transportation Capital Improvement Loans (planning and construction only)
- 20.505 Urban Mass Transportation Capital Improvement Loans (planning and construction only)
- 20.505 Urban Mass Transportation Technical Studies Grants (planning and construction only)
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.507 Urban Mass Transportation Capital and Operating Assistance Formula Grants

Water Resources Council

- 65.001 Water Resources Planning

Environmental Protection Agency

- 66.001 Air Pollution Control Program Grants
- 66.005 Air Pollution Survey and Demonstration Grants
- 66.027 Solid Waste Planning Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.419 Water Pollution Control-State and Interstate Program Grants
- 66.426 Water Pollution Control-Areawide Waste Treatment Management Planning Grants
- 66.432 Grants for State Public Water System Subdivision Programs
- 66.433 Grants for Underground Injection Control Programs
- 66.505 Water Pollution Control Demonstration Grants
- 66.506 Safe Drinking Water Research and Demonstration Grants (demonstration only)
- 66.600 Environmental Protection-Consolidated Program Grants
- 66.602 Environmental Protection-Consolidated Special Purpose Grants.

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Veterans Administration

64.005 Grants to States for Construction of State Nursing
Home Care Facilities.

Chapter 7: Uses of State and National Concern

Section (e): ACMA Requirements

One special type of use or activity is the "use of state concern." This is defined in the ACMA:

"uses of state concern" means those land and water uses which would significantly affect the long-term public interest; these uses, subject to Council definition of their extent, include:

(A) uses of national interest, including the resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

(B) uses of more than local concern; including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present of more than local significance;

(D) facilities serving statewide or inter-regional transportation and communication needs; and

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(E) uses in areas established as state parks or recreational areas under AS 41.20 or as state game refuges, game sanctuaries, or critical habitat areas under AS 16.20.

The definition encompasses (a) uses in which there may be national interests, and (b) uses of greater than local concern. Thus it includes those uses involving the planning and siting of facilities in which there may be a national interest, and also uses of regional benefit, both of which are described in the OCZM state coastal management program approval regulations. Further, the definition clearly suggest that uses of some magnitude or broad need are uses of state concern.

The ACMP guidelines require districts to submit a description of the uses and activities in their programs, including uses of state concern, which are proper or improper within their coastal area. In determining which uses would be improper, the districts are required by the ACMA not to "arbitrarily or unreasonably" restrict or exclude a use of state concern. Should a district program restrict or exclude a use of state concern, the restriction or exclusion is reviewable by the Council upon submission of the district program to the Council for approval. In determining whether a restriction or exclusion of a use of state concern is arbitrary or unreasonable, the Council is bound by the ACMA to approve the restriction or exclusion if it finds that:

- (1) the coastal resource district has consulted with and considered the views of appropriate federal, state or regional agencies;*
- (2) the district has based its restriction or exclusion on the availability of reasonable alternative sites; and*
- (3) the district has based its restriction or exclusion on an analysis showing that the proposed use is incompatible with the proposed site.*

Should the Council find the exclusion or restriction to be arbitrary or unreasonable it shall direct mediation. After mediation, should the differences have not been resolved to the mutual agreement of the district and the Council, the Council shall call for a public hearing and shall resolve the differences in accordance with the procedures set forth in the Alaska Administrative Procedure Act. Following the hearing the Council has the power to order that the district program be revised to

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accommodate the disputed use of state concern, should the Council continue to find that the district program has arbitrarily or unreasonably restricted or excluded the disputed use.

It is not inconceivable that in the development of their programs some districts may encounter one or more proposed uses of state concern competing for the same area or locality within the district's coastal zone. The issue is easily resolved when reasonable alternative sitings are available for the competing uses; however, it becomes critical should two or more competing proposals lack such alternatives. The question then arises as to how the district would resolve the conflict in favor of one use of state concern without arbitrarily or unreasonably excluding other possible uses of state concern.

As noted above, to avoid an arbitrary or unreasonable restriction or exclusion of a use of state concern, districts are required to (1) consult with and consider the views of appropriate federal, state or regional agencies, as well as (2) base their restriction or exclusion on the availability of reasonable alternative sites. These procedural requirements are not unlike those required of federal agencies under the National Environmental Policy Act of 1969, as amended (NEPA).

The procedural requirements of NEPA have been well clarified by judicial precedent to require the gathering of information relevant to competing alternatives. That information is then used in a balancing process to determine which alternative should prevail. Accordingly, under the ACMA (AS 46.35.070) districts must actively consult with, and consider the views of appropriate federal, state or regional agencies regarding competing uses of state concern. From these consultations the districts must document the relevant factors for and against each of the competing uses of state concern, and use those factors in a "NEPA-like" balancing process. That balancing process would consist of the consideration and weighing of competing factors for the determination of which use of state concern should prevail to the exclusion of another.

The documentation need not appear in the district's program document, but should be available for Council review. The district's decision as to which use of state concern should be restricted or excluded

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will be reviewed to determine whether the district's action was arbitrary or unreasonable. (See Section 46.40.060 and .070 of ACMA.)

Following program approval by the Council and adoption of the program by the legislature, districts may encounter difficulty in applying their provisions for uses of state concern. That difficulty would involve uses of state concern which were not anticipated during the process of program development and approval. Consequently, it is possible that a district could find itself, after program approval and adoption, faced with the issue of exclusion or restriction of a use of state concern that it did not address in its district program.

Should this occur, a solution would be found in the district program amendment process provided in the ACMP guidelines and the ACMA. An amendment would be mandatory if a district elected to exclude or restrict a newly discovered use of state concern. The amendment process would follow the initial program approval procedure. The district would first comply with the ACMP guidelines in describing whether and on what basis the use of state concern would be considered proper or improper within the district's coastal zone. The amendment would then be submitted to the Council for its approval, and the Council would be guided by the statutory standard regarding arbitrary and unreasonable restriction or exclusion of uses of state concern in determining whether the amendment would be approved. Approval of the amendment by the Council would be required as the amendment would be a significant one. Its significance would lie in the high priority placed by the ACMA on uses of state concern. The amendment would take final effect upon adoption by the legislature.

Section (b): Uses of Regional Benefit

Section 306 (e) (2) of the federal CZMA requires that each state management program provide:

for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

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For purposes of the ACMP, "uses of regional benefit" include all uses of state concern as defined in the preceding section. The procedure just described for assuring that district programs do not arbitrarily or unreasonably restrict or exclude use of state concern will be the primary means by which ACMP will assure that local land and water use regulations do not exclude uses of regional benefit.

The procedure described above in Section (a) will be triggered as each district program is submitted to the Council for approval. During the period before the presentation to the Council of the program of a district having zoning authority, another procedure will be available to assure that uses of state concern (and thus, uses of regional benefit) are not unreasonably excluded from the coastal zone.

This procedure is based upon the state's inherent eminent domain authority, as acknowledged in Article I, Section 18 of the Constitution of Alaska, and implemented under AS 09.55.240-460.

AS 09.55.240(a)(2) provides:

The right of eminent domain may be exercised for the following public uses:

...

(2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state...

It is a general principle of American law that

Zoning ordinances cannot encoach upon or limit the absolute right of the state or those to whom the right has been delegated to exercise the power of eminent domain.

1 Nichols, The Law of Eminent Domain, Rev. 3d ed., at 1-42 (1976).

This principle has recently been reaffirmed by the courts of the State of Montana, the eminent domain statutes of which form the basis for the corresponding Alaska provisions. *Id.*, 1978 Supp. at 11; State ex rel. Smart v. City of Big Timber, 528 P.2d 688.

Even in states that have departed from this general principle, the courts have utilized a "balancing-of-public-interests" test, assuring

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that the statewide interests reflected in a proposed exercise of the state's eminent domain authority are not subject to arbitrary frustration by local zoning ordinances. See Nichols, *supra* at 1-44, 1978 Supp. at 11-14; Town of Orinico v. City of Rochester, 197 N.W. 2d 426; City of Fargo, Cass County v. Harwood Township, 256 N.W. 2d 694.

In the absence of any contrary decisions of the Alaska Supreme Court, it can be concluded that one of the two principles just described is the prevailing law in Alaska. Either one would provide the State with an effective means of preventing arbitrary exclusion from the coastal zone of uses of regional benefit under local land and water use regulations.

It is well established that a "public use," for the accomplishment of which the power of eminent domain may be exercised under the Alaska statute, may be carried out by private entities deriving profit from the use, provided that the use is for the public welfare. Spratt v. Helena Power Transmission Co., 94 P. 631 (Mont. 1908); Alaska Gold Recovery Co. v. Northern Mining and Trading Co., 7 Alaska 386 (1926). The "uses of state concern" defined in the ACMA would in practically all uses constitute "public uses" in this very broad sense. They may thus, to the extent authorized by the legislature, be accomplished through the exercise of the State's eminent domain authority by their sponsors, and when that authority is so exercised are exempt from the normal operations of local land and water use regulations. It should be emphasized that, in the case of privately sponsored uses, compensation for takings would be paid by the sponsors, and not by the State.

The Office of Coastal Management has devised a procedure by which uses of state concern that are alleged to be in danger of unreasonable exclusion from the coastal zone under local land and water use regulations, can be presented expeditiously to the legislature for recognition and "authorization" as "public uses" under AS 09.55.240(a)(2). Upon receipt of a complaint that an alleged use of State concern has been arbitrarily excluded from the coastal zone under a local land or water use regulation, OCM will conduct an investigation of the surrounding facts. It will summarize its findings in a report to the Council. If OCM finds that an unreasonable exclusion of a use of state

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concern has taken place, it will submit for the Council's consideration a draft resolution, requesting the legislature to recognize the proposed project as a use of state concern, and to authorize it as a public use under AS 09.55.240(a)(2).

After considering OCM's report, as well as oral and written comments on the proposal from interested persons, the Council will decide whether the individual proposed use is a use of state concern. If its decision is in the affirmative, the Council will adopt the draft resolution requesting the legislature to authorize the use, and forward to the legislature the resolution, the OCM report, and the comments. If, after reviewing these materials, the legislature determines that the use should be allowed despite local land use regulations, it may authorize it as a public use under AS 09.55.240(a)(2). The sponsors of the project will then be authorized to exercise the power of eminent domain on behalf of the state, and will be exempt from the normal operation of local zoning. The legislature's determination that the use constitutes a public use will be subject to judicial review during the course of the condemnation procedures subsequently initiated by the sponsors.

Thus, the ACMP fulfills all requirements of the federal CZMA concerning uses of regional benefit.

Section (c): Continued Consideration of the National Interest in Facilities Serving Other Than Local Needs

Section 306(c)(8) of the federal CZMA requires that each state management program provide for:

adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature.

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As was noted in Section (a), above, the ACMA concept of "uses of state concern" includes:

uses of national interest, including the resources for the siting of ports and major facilities which contribute to meeting national energy needs,

and

the siting of major energy facilities or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance.

The procedures described in Section (a) will thus serve to assure continuing consideration of the national interest in facilities serving other than local needs in the development and implementation of district programs.

In areas for which district programs have not been approved the state agencies managing coastal land and water uses will also be required to consider adequately the national facilities of greater than local significance. Under AS 46.35.200, state agencies must take whatever action is necessary to facilitate full compliance with and implementation of the ACMP. Because of the importance attached in the ACMA to reasonable treatment of uses of state concern, a state agency that failed even to consider adequately the national interest that might be involved in such a use would plainly violate its obligation to facilitate full compliance with the program. The obligation of state agencies to accord adequate consideration to the national interest in uses of state concern will be recognized and reaffirmed in the Administrative Order. Failure of an agency to meet this obligation would constitute a ground for judicial reversal of that agency's action.

The open nature of state and district proceedings affecting coastal land and water uses assures that all persons and organizations wishing to present alleged national interests for consideration will have the opportunity to do so. The Administrative Order is expected to require

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that state agencies provide notice and opportunity to comment on permit applications sufficient to allow meaningful input by interested persons.

Chapter 8: Coordination and Participation

Section (a): General

This chapter describes the general effort to develop ACMP in coordination with, and with opportunities for involvement by, all interested parties.

ACMP has been under development since the spring of 1974, and during this time a variety of efforts to coordinate the program with other programs and interested parties have been made. These efforts have usually centered on a particular element of ACMP rather than the program as a whole. This was due, in part, to the fact that there was no single document which described the entire program, except for the annual grant applications. These applications for federal program development funds were circulated through the A-95 clearinghouse and represented a good effort to coordinate the overall program, as they were sent to local governments and state and federal agencies. Persons who reviewed the grant applications were thus able to keep track of the direction of the program. More tangible coordination and participation efforts were made for the primary elements of ACMP. These are the Alaska Coastal Management Act itself and the ACMP Guidelines and Standards.

Section (b): Alaska Coastal Management Act

The Coastal Management Act which passed in June of 1977 was not the first attempt to pass coastal management legislation for Alaska. Earlier bills were proposed and circulated among state and local governments for comment. At one point in 1976, twelve public hearings were held on one such bill. The current Act was sent to federal agencies very early in the 1977 legislative session for their comments, which were passed on to the legislature. It was partly a result of this, plus prior efforts of ACMP to coordinate with federal agencies, that resulted in the inclusion, and protection, of various federal functions in the definition of uses of state concern now found in the Act.

Local governments, too, had a great deal to say about the eventual coastal legislation, and it was their active interest in the

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program, protest of the original legislative concepts, and eventual support of the present legislation that enabled passage of the Alaska Coastal Management Act.

During the period prior to passage of the Coastal Management Act, the state agencies participated in the development of the ACMP through a policy committee organized by the Governor. This committee represented the major state agencies and provided guidance to the program until the present Alaska Coastal Policy Council was established.

Section (c): ACMP Guidelines and Standards

While the Coastal Management Act was crucial to the program in terms of structure and authority, the guidelines and standards define what the program is to accomplish and how management must take place. Examination of local plans showed great differences in local situations and needs. To assure that the ACMP Guidelines and Standards would be coordinated with local plans, at least at the policy level, drafts were sent to coastal local governments for their comments. One clear message came back: in order to be workable for the entire coastal area of the state, the standards would have to be fairly general, as there are an endless number of special cases and situations.

The guidelines and standards were also developed with other local considerations in mind. Many local governments have been engaged in planning activity for some time, and it was felt that this prior work should be used wherever possible. An examination of local comprehensive plans and other work demonstrated that many of the districts could prepare approvable coastal programs with expansions and updates of their existing plans.

The public and federal participation discussions which follow will show in greater detail how those sectors were involved in the development of the guidelines and standards.

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Section (d): Public Participation

Alaska has traditionally been an isolated, independent, and slow-moving land. Climate, distance, and lack of facilities have all contributed to this situation. The development of an effective public participation process for the coastal management program had to take into account these considerations:

- 75% of Alaska's 418,000 people live in 200 coastal communities. Many make their living from coastal resources, fishing, hunting, logging, and mining. Of the 47,300 miles of coastline in Alaska, most is undeveloped and access is limited.
- Alaska spans five time zones from east to west. It takes approximately four hours by jet to fly from north to south. Roads connect only the major cities, and many of the lesser roads are unpaved. Weather often stops all transportation for days, and in some places, weeks.
- There are few statewide newspapers. Many local newspapers are weekly, and some areas have no newspaper at all.
- Live television is now available in some parts of the state via satellite. Cable TV is also available in some areas, but many areas continue to have no television.
- Whereas many local radio stations, AM and FM, operate within the state, their range is generally limited and their perspective local. News of national or statewide significance is often poorly covered.
- Telephone service still does not cover the entire state. It may take hours, or even days, to place a call from a village to the "outside." Some villages have only one telephone, and many communicate primarily by radio.
- Language barriers in rural Alaska are considerable. The three major Native language groups are Eskimo, Indian, and Aleut. The Indian and Aleut people generally speak English with varying degrees of fluency, but many Eskimos in rural areas are less familiar with English, and some older Eskimos

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cannot speak English at all. Translators are a necessity when government officials conduct public meetings, and must be carefully selected to allow communication of concepts which may have no Native equivalent. Publication in Native languages is difficult as there are different orthographies, and many older non-English speakers do not read at all.

ACMP's response to these factors has been primarily by developing informational products for statewide distribution; holding public workshops for educational purposes; and holding public hearings to formally solicit public testimony.

Through these techniques, people in Alaska have become involved in this complex government program to an unprecedented extent.

Products

The ACMP now has a mailing list of over 2400, including legislators, Native organizations, federal and state agencies, local governments, special interest groups, and individuals.

The Office of Coastal Management publishes a newsletter, the "Alaska Current-ly," which is distributed to the entire mailing list. The newsletter carries articles on coastal-related issues as well as announcements of meetings and opportunities for public participation. In addition, the Office of Coastal Management staff releases informational articles and press releases to newspapers, as necessary.

Several movies and slide shows have been produced by the ACMP and are available on request. One slide show was produced by an Eskimo from the Yukon-Kuskokwim Delta, in Yup'ik, with an English translation. Because many villagers will not come to a meeting solely to view a slide show, it is shown at regular village meetings. It will take approximately two years for all villages within the region to receive the presentation. This slide show has been extremely well received and it is an effective technique of education in rural Alaska.

Speakers have been provided to groups interested in learning about coastal management. The ACMP has participated in four confer-

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ence workshops sponsored by the Alaska League of Women Voters, the National Oceanic and Atmospheric Administration, the Alaska Native Foundation and Kawerak, Inc., the non-profit Native association for the Bering Strait region.

Workshops

The ACMP has held two separate sets of statewide workshops.

In the Spring of 1977, six workshops were held in Southeast and Southcentral Alaska. Approximately 200 people attended. Because this was before the Alaska Coastal Management Act was adopted (June, 1977), staff members explained the basic requirements of the state coastal management program and the bill then being considered in the legislature. Technical and financial assistance were offered to communities wishing to begin the process of local coastal planning.

The major issue was the proposed coastal legislation. Many participants had been involved with, or were aware of, previous bills which were basically "direct state control" techniques. Much concern was expressed about insuring sufficient local control in a statewide coastal management program.

As a result of these meetings, the Office of Coastal Management enlarged its mailing list to include all registrants, and began planning a second set of workshops, which were held in the Fall of 1977. By this time, the Alaska Coastal Management Act had gone into effect, with the legislature having considered the results of the ACMP workshops. This Act required the Alaska Coastal Policy Council to develop, using the public hearing process, the guidelines and standards for coastal management. The primary function of the fall workshops, therefore, was to get public input to help draft these regulations.

Of the 200 coastal communities in Alaska, twenty were chosen for workshop sites. Most would be required to prepare coastal plans under the Alaska Coastal Management Act. Dates for the workshops had to be carefully set on the basis of hunting and fishing seasons, as throughout coastal Alaska, many people leave their homes for periods of time to gather food in season. In addition, because several communities had only one location suitable for holding a public meeting, as well as only one hotel, schedules had to be adjusted so as not to conflict with other uses of these facilities. Workshops had to be scheduled far enough

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apart in time to allow for weather delays; it took two and one half months to actually conduct the twenty workshops.

In preparation for the workshops, a special tabloid was mailed to everyone on the mailing list and distributed statewide as a newspaper supplement. The tabloid contained both educational material and a pull-out questionnaire to be filled out at the workshop or mailed to the Office of Coastal Management. The questions concerned what people thought the coastal management program should and should not be concerned with. It was designed to be understandable by everyone, and usable by all. Although some workshop participants complained that the questionnaire was too simplistic, it was generally successful at encouraging thought and discussion on coastal management.

In addition to the tabloid, a thirtyminute television program was shown prior to the workshops in each region. The program was an introduction to the concept of coastal management.

Three examples of locations at which workshops were held in more rural areas are Unalaska, North Slope Borough, and Kipnuk.

Unalaska, in the Aleutian Islands, has only one TV cable station, no radio station and no newspaper. The scheduling of the TV station is so informal that the city manager had the OCM TV program run for the three nights preceding the workshop. Because there is relatively little entertainment in Unalaska, it is likely that most residents learned something about coastal management, even if they did not attend the workshop.

The North Slope Borough covers the entire northern section of the state. A workshop was scheduled in Barrow, the headquarters of the borough. The school superintendent sent the TV program and the tabloids out through the school system. This meant that most of the major villages, where the people see relatively little of state government, had an opportunity to view the half hour program and fill out the questionnaire. Two months later the Office of Coastal Management received in the mail a set of filled-out typed questionnaires from Kaktovik, Barter Island in the Arctic Ocean. It had been typed and duplicated by a teacher in the school there because not enough copies were received. Comments included:

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We do not want our camp to be ruined. We usually hunt ducks and fish. We do not want our camp for nothing else but camping.

Every family has a camp for fishing and hunting for some meat. We eat the food and we don't hang the antlers on the wall like the white man.

In Kipnuk, a village of 300 Yup'ik Eskimos on the edge of the Bering Sea, three-quarters of the meeting was held in Yup'ik. There is no TV or newspaper in Kipnuk and a workshop was not scheduled there. The Office of Coastal Management was invited to be on the agenda of a meeting of the village leaders from the surrounding area. About 25 villages were represented.

In the more urban workshops, radio, television, and newspaper coverage was provided.

Approximately 900 persons attended the twenty coastal management workshops.

- 699 people registered
- approximately 600 registrants were from communities in which workshops were held
- approximately 100 registrants were from other towns and villages
- 64 Alaskan communities were represented at workshops
- Coastal Policy Council members attended thirteen of the workshops
- 1,963 questionnaires were filled out and returned at the workshops and through the mail

Most of those participating in the workshops, in all parts of the state, identified three important feelings:

1. The protection and development of renewable resources, especially fishing, should take precedence over non-renewable resource development;

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2. Local control in coastal planning should be maintained; and
3. Cooperative planning on a regional basis should be established.

A substantial number of participants recognized a need for additional development along the coast, but felt that natural resources should be developed in a way that protects existing lifestyles and values.

In the North, Northwest, and Southwest Regions of Alaska, subsistence activities were given the highest priority. Participants wanted to protect their traditional village lifestyles, and they considered impending development threatening. Many villages are still dependent to a large degree upon the land.

In Bristol Bay, Kodiak, Cordova, and the Aleutians, commercial fishing was the highest priority. Participants were extremely concerned about the impact of oil and gas development upon the fishing industry.

In the Southeast and Southcentral Regions, there was recognition that there must be a balance between competing demands on coastal resources. In the Southcentral Region, fishing, offshore oil, recreation, tourism, port development, and wildlife protection were seen as the most important uses which must be managed. In the Southeast Region, fishing, logging, tourism, and wildlife protection were considered the most important coastal issues.

In every region, questionnaire results show that coastal food harvesting for commercial purposes, aquaculture, and harvesting of fish and game by local people (subsistence) were considered to be the most important uses. Discussion of oil and gas development revealed ambivalent feelings. Some people wanted to encourage oil and gas development, and the growth which accompanies it; some wanted the development, but not the growth; and others wanted to discourage oil and gas development altogether. On the questionnaire, oil and gas development ranked in the middle in every region. It ranked higher in Southcentral, which includes Anchorage and Kenai, than it did elsewhere. The least favored uses were the filling of wetlands, although participants recognize that it may be necessary in some limited cases, and allowing non-local people to harvest fish and game.

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Questionnaire results showed that, in deciding where development should occur, the most important question is how the development would affect the plant and animal resources of the coast.

Most people did not favor the idea of government planning for the coast. However, many people recognized the necessity to plan before many irreversible commitments of lands and resources are made. People stated at the workshops and on the questionnaire that they wanted to be kept informed and involved in the planning process. They felt they will be affected by the program, and they wanted to be involved in making the decisions.

Narrative summaries of the workshops were prepared by the Office of Coastal Management and distributed to all participants. In addition, a statistical analysis of the workshop results was prepared. A thirty minute television program entitled "The People's Coast" was produced and distributed statewide, summarizing the workshops with footage shot at several of the workshops.

In the fall of 1977, with summaries of the workshops, the statistical analysis of the workshop results, and the video program in hand, the Office of Coastal Management began to draft the guidelines and standards. Summaries of the workshop results were also furnished to the Council members and all state legislators.

Public Hearings

On January 4, 1978, after several meetings, the Alaska Coastal Policy Council adopted a hearing draft of the guidelines and standards. Public hearings were scheduled in February and March, 1978, in fifteen of the communities in which workshops had been held. Because of weather problems, only two hearings per week could be scheduled for each hearing officer. In order to conduct fifteen hearings in the two-week allotted time, five hearing officers were necessary. Legal notice was published in newspapers statewide, and posters were placed in all hearing communities. An article was published in the "Alaska Current-ly" announcing the times and locations of all hearings.

The Office of Coastal Management wrote service announcements for radio and TV stations and press releases for newspapers. Over 2,000 public information bulletins on the review period were sent to the OCM

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mailing list, including all people who registered at the fall workshops. Translators were arranged in appropriate communities and copies of the hearing drafts were distributed to the city offices of each community where hearings were scheduled.

Approximately 340 people attended the public hearings. Many did not testify, but came to ask questions about the program. Each meeting was divided into two parts: an "on-the-record" portion for those who wished to formally testify, and an informal portion when the hearing officer answered questions. All hearing officers prepared detailed hearing summaries in which both aspects of the meeting were reported.

The major concerns expressed at the hearings were:

- | | |
|------------|--|
| Juneau | - government "taking" of private property through coastal regulation |
| | - local control |
| Unalaska | - subsistence |
| | - local control |
| | - opportunities for public involvement |
| Kotzebue | - subsistence |
| | - the Unorganized Borough |
| | - local control |
| Dillingham | - local planning |
| | - subsistence |
| | - public involvement |
| Cordova | - local planning |
| | - planning for areas outside the district |
| Valdez | - local control |
| | - the responsibilities of state agencies |
| Ketchikan | - timber harvest over-regulation |
| | - local control |
| | - planning for areas outside the district |

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- Bethel
 - subsistence
 - local control
 - public education and involvement
- Kodiak
 - local control
- Barrow
 - subsistence
 - local control
 - oil and gas development
- Anchorage
 - local control
 - conflict resolution and appeals procedures
 - public education and participation
- Nome
 - subsistence
 - public participation
 - bilingual opportunities
 - the role of the Native corporations
- Soldotna
 - abilities of local and state governments in planning
 - local control
- Homer
 - local control
 - conflict resolution and appeals
- Sitka
 - local control
 - federal and state consistency

On the basis of the comments received in the public hearings and the thorough written comments received during the sixty-day comment period (see federal agency participation chapter), the guidelines and standards were revised by staff and presented to the Council, along with summaries of all comments received. The Council then revised the guidelines and standards and adopted a final version in April, 1978. This version contains numerous requirements for public participation both at the Council and at the district levels.

In addition to public workshops and hearings sponsored by OCM and the Council, the Alaska Legislature also held fourteen hearings state-

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wide in the summer of 1975 on the original proposed coastal legislation. Their hearings led to the defeat of a "direct state control" coastal bill and the passage, one year later, of the present Alaska Coastal Management Act.

Program Document Hearings

All of the ACMP sponsored hearings in the past have been directed at obtaining public comment on important elements of the program. The guidelines and standards are the most notable example. The program document is a description of ACMP, and has considerable importance for the program in terms of public understanding and federal approval of the program. Therefore, it seemed appropriate that a public comment opportunity should be made available for an early draft of this document as well. Toward this end, a "Preview Draft" was circulated in July of 1978 for public and agency comment. This DEIS draft is based in part on the comments that were received from that review.

The review was a very useful effort and the Office of Coastal Management Staff was assisted greatly in revising the format and presentation on the basis of the review comments. A separate publication is available from the Office of Coastal Management which contains the oral and written comments received, along with a response from staff as to how the comments were utilized. Among the comments, many of which have been addressed in this draft of the Program Document were:

1. The preview draft was too long, too bulky, redundant and poorly organized.
2. The intent and purpose of the document is not clear, is it the plan for the coast or something else?
3. The state implementation structure is not clear.
4. The regional planning element of the program is not clear.
5. There were many comments on the substance of the ACMP regulations. (These comments have been passed on to the Coastal Policy Council, which has the power to act on them. Both this draft and the Preview Draft can present and discuss the regulations, but only the Council and the Legislature have the

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power to change them.)

6. The process for designating Areas Which Merit Special Attention is unclear.
7. A number of technical errors, citations, etc. were noted.
8. The Manual of Standards (still under production) is unclear. What is it and how will it be used?
9. Local programs should be made part of the federally-approved ACMP by the amendment process. (This comment came from several federal agencies.) As noted in Chapter 3, OCM is aware that the relevant federal regulations addressing this concern are undergoing revision and are expected to be published during this DEIS review period. The final program document that will be published with the FEIS will prescribe district program incorporation procedures that are fully in compliance with federal regulations, and which provide ample and repeated opportunity for participation, review, comment, and consideration of local district programs prior to incorporation into the federally approved ACMP.

Section(e): Federal Agency Participation

1. Steps Taken to Involve Federal Agencies

The State of Alaska has more reason than most other states to recognize the importance of federal agency participation in the coastal management program. The Alaska Native Claims Settlement Act transfers 44 million acres of land from federal to Native corporation ownership and creates millions of acres of federal reserves. The Alaska Statehood Act allows the state to select millions of acres of federally owned land. Much of the land affected by these two acts is located in the coastal zone, thus creating a fundamental uncertainty as to the final contours of land ownership. This together with the fact that approximately 60% of the land area in Alaska will remain in federal ownership after all

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transfers are made has made federal participation in the ACMP especially important.

The first substantive involvement of federal agencies in the ACMP came in 1975 with a request by the Office of Coastal Management for summaries of federal agency goals, policies, and programs related to the coastal zone. These summaries were to become the basis of the national interest provisions of the Alaska Coastal Management Act, then under development in the legislature. In addition, the Office of Coastal Management became aware of major federal planning processes. This information can be obtained from the Office of Coastal Management.

The first federal agency meeting was held on May 22, 1975, and was attended by 22 federal agency representatives. A second meeting was held in September, 1975, attended by 21 federal agencies. At these meetings the need for the summaries referred to above was discussed, as well as such matters as federal lands excluded from the coastal zone, federal consistency with the ACMP, and designing a coordination process. Several more meetings took place in 1976.

In the summer of 1976, the position of Federal Programs Coordinator was established in the Office of Coastal Management. The coordinator, a full-time position, was responsible for relating ACMP developments with federal agency policies and programs. The Federal Programs Coordinator made numerous contacts with federal agencies in the late summer and fall of 1976, and participated in meetings with the Department of the Interior Coordination Committee and the Department of Transportation Intermodal Planning Committee.

In December, 1976, federal agencies were afforded the opportunity to comment on proposed state coastal management legislation. This proposed legislation contained the best expression to date of the State of Alaska's policies on coastal management. This legislation was enacted as the Alaska Coastal Management Act.

In early 1977, the Office of Coastal Management began distributing its monthly newsletter, the "Alaska Current-ly." All federal agencies that were participants in program development were on the mailing list. Interagency meetings, special federal agency mailings, and individual meetings continued.

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In September, 1977, the Alaska Coastal Policy Council held its first meeting in Anchorage. Federal agencies were invited to attend and participate in this and all subsequent Policy Council meetings.

Major mailings were made in August, 1977 (including a copy of the Alaska Coastal Management Act, a federal agency participation timeline, a schedule for the ACMP fall workshops, and a summary of state agency activities in the coastal zone); September, 1977 (another request for federal agency policies, and copies of federal coastal zone management program approval and consistency regulations); and November, 1977 (the new draft of guidelines and standards, a description of proposed boundaries, and a list of state agency products concerning coastal management).

In November, 1977, federal agencies were given the first draft of the Council's guidelines and standards at a special meeting. Fifteen agencies were represented.

At least three formal drafts of the ACMP Guidelines and Standards were sent to federal agencies for their review and comments, one each in November and December, 1977, and another in January, 1978. The latter was the draft on which public hearings were held. The periods for review were, of necessity, short, as the Alaska Coastal Management Act specified December, 1977, as the date when the Council was to have completed hearings on the guidelines and standards. A few agencies commented in writing on the first drafts of the guidelines and standards; eighteen agencies submitted comments on the hearing draft.

Sixteen agencies attended a February, 1978, federal agency meeting. A presentation was made on the coastal zone boundaries, additional comments on the guidelines and standards were solicited, and federal consistency procedures were discussed for the first time. A subsequent mailing included more details about boundary delineation, the Council's internal guidelines, a draft of the Office of Coastal Management's federal consistency procedures and a draft of the text of the ACMP document.

In order to establish federal consistency procedures, the Office of Coastal Management requested federal agencies to provide lists of federal activities, licenses, permits, and assistance programs in the coastal zone. Most of this information was obtained at another round of individual meetings held in March.

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2. The National Interest, the ACMA, and the ACMP Regulations

The Coastal Zone Management Act was enacted in response to the recognition of the importance of the nation's coastline. Thus, it is in the national interest to "preserve, protect, develop, and where possible to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations."

Considering the "national interest" is a difficult undertaking, as no one has ever adequately defined the collective national interest. There are, however, readily identifiable uses, activities and resources in which there may be a national interest. Their uses and resources are presented in tables 1 and 2 found at the end of this chapter, along with the guidelines and standards and relevant sections of the ACMA that relate specifically to those uses and resources.

Certainly the most important result of coordination with federal agencies has been the recognition of the national interest in the Alaska Coastal Management Act definition of "uses of state concern," which specifically identifies certain federal functions and responsibilities. By making these a part of the definition, local governments must recognize these functions and responsibilities in their plans. The following are specifically identified in AS 46.40.210(6):

- ports
- major energy facilities which contribute to national energy needs
- navigational facilities and systems
- resource development of federal land
- national defense
- communication
- transportation
- and generally any uses of more than local concern, which could be state, regional or federal responsibilities.

As well as the category "resource development on federal land," the last category includes resources in which there may be a national interest. These include, but are not limited to, endangered species, both floral and faunal; wetlands and their protection, both freshwater and saltwater, as specified by Presidential Order; floodplains and their management as specified by Presidential Order; wildlife refuges and

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reserves, national parks, monuments, historic sites and recreation areas, and agricultural lands.

AS 46.40.060 states, in part, that the Council may grant summary approval to a district program if it "does not arbitrarily or unreasonably restrict or exclude uses of state concern..." The statutory test for the reasonableness of a restriction or exclusion (AS 46.40.70(c)) is outlined in Chapter 7 and includes consultation with state and federal agencies, availability of alternative sites, and incompatibility of the proposed use. In addition, 6 AAC 85.080 requires districts to identify improper and proper uses of state concern, and 6 AAC 80.140 obliges the districts to involve federal agencies from the beginning of district program development.

Recognizing that federal agencies will have limited staff capability to monitor the status of each of the many district programs, the Office of Coastal Management and Department of Community and Regional Affairs plan to assure that federal agencies will receive copies of all district program draft documents.

The Office of Coastal Management will compile a document (and supplement it), which will contain federal agency statements of interests and activities in Alaska. The Office of Coastal Management will continue its federal agency outreach program, and involve federal agencies in state or local affairs as issues arise. The State Agency Coastal Coordinating Team (SACCT), in its efforts to define uses of state concern and areas meriting special attention, will involve federal agencies in those tasks. For federal consistency matters, individual agreements will be made with each agency to declare which of the agency's activities will be subject to consistency and what procedures will be used.

Federal agencies will continue to be involved in future additions and amendments to ACMP regulations, and the Council has obligated itself to review the regulations at least annually.

3. Federal Agency Views and the ACMP

As tables 1 and 2 point out, there is a diversity of national interests that must be considered in the Alaska Coastal Management Program, and as the earlier discussion showed, federal agencies

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were given adequate opportunity to provide input into the ACMP. Federal agency concerns and how they were addressed follow:

Boundaries. Several agencies were concerned that the guidelines and standards and the boundary maps did not mention or show the coastal zone seaward boundary as the limits of the territorial sea, that is, three miles. The program document text and program maps now reference the federal law which states that the seaward limit is indeed the limit of the territorial sea.

District Program Development Final Approval Process. Many federal agencies have suggested that adequate safeguards are needed to ensure consideration of their views in the district program approval process, and that such consideration can be guaranteed only by amending the district programs into the ACMP. The Office of Coastal Management has devised procedures that have been adopted by the Alaska Coastal Policy Council as regulations which ensure that federal agency interests are considered and are not unreasonably excluded or restricted. These procedures have been revised recently to increase the length of advance notice, the number of opportunities for review, and the duration of the review periods. Federal regulations concerning modifications to approved state programs are undergoing revision as of this writing and unfortunately, the final regulations are not available for guidance on this subject. OCM assures federal agencies that the incorporation process that will be contained in the final draft of this program will provide ample opportunity for comment, and will be fully in compliance with federal regulations.

Guidelines and Standards Specificity. Many federal agencies argued that the guidelines and standards were too general. Revisions have been undertaken to strengthen certain of the guidelines and standards. Reviewers are reminded, however, that these regulations apply to all state agency activities and permit programs, as well as to district programs. Any activity undertaken must be in conformance with each of the standards, including those protecting habitats and prescribing water dependency, and not only the standard that addresses the particular use. The guidelines and standards, when complemented by the ACMA and other state police and proprietary authorities that must be carried out in a manner consistent with the program, provide policy guidance that is specific enough to manage coastal uses.

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Mention of Endangered Species. Some agencies were concerned that endangered species were not adequately protected. The ACMP protects endangered species by protecting their habitats. Such protection under the ACMP is provided by the habitat standards. Any person, including federal agencies, can nominate critical habitat of endangered species for special protection as areas which merit special attention, either directly to the Council or through the district planning process.

Wetlands Protection. Certain federal reviewers suggested that the ACMP was unable to protect wetlands adequately. Wetlands were considered, and a standard adopted under the habitats section of the guidelines and standards stating wetlands must be managed to maintain or enhance their ability to support living resources. Any development that requires a state permit and that would require wetland alteration would have to meet this protective standard. Other federal reviewers argued that this standard for habitat protection was too rigid. Three criteria were added, that if met, would allow strictly limited exceptions to any habitat standard in cases where no feasible or prudent alternative was available. Also, the coastal development standard was written specifically to include by reference the Corps of Engineers' standards for wetlands protection.

AMSA's . Most agencies expressed a desire to be allowed to nominate AMSA's for inclusion in district programs or for Council designation in the Unorganized Borough. Provisions for such nomination has been included in the Council-approved recommended revisions to the guidelines and standards that will be presented to the state legislature for action in the 1979 session.

Energy Policies. Many agencies expressed the opinion that stronger, more specific standards for energy were needed. Despite the fact that energy facilities must be sited in full compliance with the guidelines and standards that are not activity-specific, such as the habitat and coastal development standards, and, therefore, could be adequately treated without revisions, the Council has approved for legislative action a revised, more specific set of coastal energy policies.

Other Concerns. Federal environmental concerns (which are equally state and local concerns) have been provided for in the Habitats and the Air, Land and Water Quality sections of the guidelines and standards. The specific regulations of the Corps of Engineers for dredging and filling

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have been adopted by reference, as have the air and water quality requirements of EPA (this by adoption of the Alaska air and water quality standards, which meet or exceed those of EPA).

There remain disagreements over the wording of some ACMP regulations. Many of these problems may be resolved in future amendments to the regulations. Because the various federal agencies have divergent concerns, however, it is unlikely that all of these agreements can be fully resolved. It is clear the present regulations, as well as the provisions of the Alaska Coastal Management Act, ensure adequate consideration of the federal agency views and the national interest, as defined directly by the federal agencies themselves.

Not surprisingly, the national interest parallels the state and local interests. Each level of government desires economic stimulation. Each wants environmental quality and protection. Each is concerned about navigation, national defense, energy, communications, mineral transportation and the other issues ACMP has addressed. This commonality of interest does not preclude the possibility of conflict. Conflicts are more likely to arise between communities of interests which span the three levels of government, than between one level of government and another.

4. Federal Programs in Alaska

There are a number of federal programs underway in Alaska which relate in one way or another to ACMP. This is not at all surprising given the vast coastal resources of the state and the national interest in the use and management of those resources. Some of the projects listed below are federal in origin, but are being carried out by state agencies. Others utilize a combination of state and federal agencies to execute the project. In many cases, there are advisory groups of state agency representatives with whom the federal agencies consult. ACMP is usually a member of these groups directly or indirectly by virtue of the presence of DPDP or another line agency on the advisory group.

- 1) The "208" Study. This program is in essence a state response to national efforts to control non-point source pollution. Funding comes from EPA but the work is being carried out by the Alaska Department of Environmental

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Conservation. Five specific types of non-point source water pollution are being examined: placer mining; silvicultural practices; road and pipeline construction; waste oil disposal; and village sanitation. The effort will eventually result in ADEC regulations to control non-point source pollution from these activities. Those regulations will be worked into the ACMP regulations. Coordination at present consists of relations between OCM and ADEC staff and mutual review of draft products.

2) BLM Transportation of OCS Oil and Gas Study. BLM has devised a planning process for the leasing and transportation of OCS oil and gas. ACMP participates in this effort through the leadership of DNR. BLM has a state advisory group assisting in the study. The study materials already make reference to ACMP and specifically the role of district programs.

3) National Forest Planning. The National Forest Lands Management Act of 1976 requires land use planning for national forests. Planning is underway for Alaska's two national forests, the Tongass and the Chugach. State agencies were involved in task forces set up to identify land use values in the forests. OCM commented on some elements of these plans. While the national forests are technically excluded from the coastal zone, ACMP has worked with the Forest Service to assure compatibility between the planning efforts, with a special emphasis on coastal boundary identification.

4) Southcentral Alaska Water Resource Study (Level B). This study is designed to assess existing and projected water and related land resource problems and to evaluate alternative solutions for the next 15 to 25 years. The results of the study will have an important bearing on future industrial, commercial, and residential development, which will impact the district and regional ACMP planning processes. Both federal and state agencies are participating in the project. Primary liaison for ACMP occurs with ADEC. At some point, the study will determine the limitations to growth in the study area that are caused by water supply,

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and then the state, acting now primarily through DNR, will have a better idea of how to allocate water.

5) Intermodal Transportation Planning. This study is centered on efforts to assess Alaska's present and future transportation needs. Any resource development in Alaska will depend on transportation planning and costs of moving materials to markets. Federal and state agencies are participating in the effort, the result of which will impact district and state coastal planning. The Alaska Department of Transportation and Public Facilities, which is a member of both the Alaska Coastal Policy Council and the ACMP state agency regional planning team, provides liaison for ACMP to this planning project.

6) Federal/State Land Use Planning Commission. This body was established to undertake a process of land use planning and to make recommendations regarding the use and management of Alaska's federal and state public lands and resources. The FSLUPC was directed to improve coordination between state and federal agencies, to assist in implementing the Alaska Native Claims Settlement Act, and to recommend policies that will work to ensure that economic development in Alaska is orderly and compatible with state and national environmental and social objectives. Much of the inventorying and mapping done by FSLUPC will be of use to state and local coastal planning activities. FSLUPC has many projects and the ACMP relationship with the Commission depends on the nature of the project being discussed. In many cases, particularly with mapping, DNR provides the primary ACMP liaison. In a relatively new effort, computer storage of geographic information, OCM is directly involved in considerations for computer storage of data.

7) Beaufort Sea Leasing Committee. BLM and the state each have tracts of land in the Beaufort Sea coastal area that are suspected of containing oil reserves. The tracts adjoin each other, and there are several areas where the ownership is not clear. In order to expedite exploration and development of potential petroleum resources, the state and BLM decided to hold a joint lease sale, and make all the leases

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subject to coordinated stipulations, such that both parties' needs would be accounted for in the lease agreements, and thus, exploration and development could proceed in advance of a final determination of the ownership of the disputed lands. Revenues from the leases and production will be divided between the state and federal governments after the ownership question is settled. In order to assure adequate communication and coordination, the Leasing Committee was established to draw up lease stipulations and to participate in the various environmental and other studies that precede the lease. DNR provides the leadership for this committee, since it has the major responsibility for the state in the leasing venture. DPDP is also on the committee and provides ACMP liaison by that means, as well as through DNR.

8) Coast Guard Ten Year Plan. In order to determine the demands for its services, the Coast Guard has engaged in a process to identify changes expected or possible in the Alaska economy and external economy, and how this will affect USCG's mission. The Alaska Coastal Policy Council is part of the general distribution for copies of the plan and has the opportunity to comment at appropriate points. The plan is aimed primarily at USCG personnel, property and equipment concerns, and at this juncture, the relevance to land and water use management is slight.

9) BLM-OCS. One of the largest planning efforts in Alaska is related to the leasing, exploration, and development of anticipated petroleum and gas reserves in Alaska's OCS. While the area beyond the three-mile limit is excluded, the state will be providing a great deal of on-shore services to OCS development, and many changes can be expected. ACMP is heavily involved at the state and local level in planning for onshore impacts of OCS development, and several of the districts have this as regular elements in their planning efforts. OCM has direct liaison with the Environmental Assessment Division of the BLM-OCS office, whereby the activities of that office are monitored by OCM, and that office may keep track of, and participate in the development and implementation of ACMP.

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10) NOAA-OCSEAP. NOAA is sponsoring a multi-million dollar Outer Continental Shelf Environmental Assessment Program. This program looks at all aspects of the OCS, including social and economic aspects. DPDP has two staff members working directly in the program as state "working-liaison" personnel. Coordination with ACMP is achieved in this manner as well as occasional direct contact between the OCSEAP leaders and OCM.

11) Bureau of Land Management -- Management Framework Plan. The Bureau of Land Management prepares comprehensive land use plans for the public lands it administers. These plans involve inventorying (Unit Resource Analysis), socioeconomic analysis (Planning Area Analysis) and conflict analysis, resolutions, and a Management Framework Plan. While these federally owned lands are excluded from the coastal zone, BLM will work with OCM to assure consistency with the ACMP when developing plans for lands in the coastal areas.

An inter-agency task force is completing a land use plan for the National Petroleum Reserve-Alaska and has worked closely with the North Slope Borough.

12) HUD Land Use Element. As part of the state participation in HUD's Community Planning Assistance Program, the Division of Policy Development and Planning has developed a set of land use policies. These policies basically reflect existing land use objectives as practiced by line agencies, including the ACMP standards, and are required in order for the state to continue to receive HUD funding for community planning. This assistance is used in concert with CZM funding to develop community plans and implementation ordinances. In the ACMP formulation stage, OCM staff worked with other DPDP staff members to make sure that the HUD policies were consistent with the ACMP Guidelines and Standards. DPDP is now in the process of revising the HUD policies because of changes being made to the guidelines and standards, and further direct review of the policies formulated as part of the HUD-financed planning effort.

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13) Flood Insurance Program. The Federal Insurance Administration within HUD administers the national flood insurance program. The program provides federal insurance for flood-prone areas and is coupled with local floodplain management to reduce flood losses.

The Department of Community and Regional Affairs has developed a model zoning ordinance which basically provides engineering solutions for floodplain construction. The floodplain ordinance ties in directly with the geophysical hazard standard of the ACMP in that it provides a vehicle for flood-prone communities to meet the ACMP geophysical hazard standard. HUD is mounting a program for identification of flood-prone areas and for surveying and mapping. This material will be useful for district planning. The program also identifies standards for floodproofing. Land use regulations and controls in district programs will be useful tools in responding to FIA program needs as well.

Flooding is listed as one of the geophysical hazards that districts must confront in their programs. State and local participation in the federal flood insurance program should make it easier for districts to meet the ACMP standards.

Section (f): Coordination and Consultation at the State Level

This section sets forth the five basic ways in which state agencies participate in ACMP, and also discusses how state agencies will consult with local governments regarding actions they may take that affect the local governments. State agency involvement in ACMP occurs through four major mechanisms:

1. Policy-level coordination through agency membership on and participation in, the Alaska Coastal Policy Council;

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2. Implementation and enforcement in the course of existing permit or program activities of the ACMP regulations, ACMA itself, and the local government coastal programs when such programs have been placed into effect;
3. Generation and dissemination of information on coastal resources and activities which will be of use to both districts and state agencies, as well as to other ACMP participants; and,
4. Operations of a State Agency Coastal Coordinating Team (SACCT), consisting of representatives from the six line agencies (Departments of Natural Resources, Environmental Conservation, Fish and Game, Commerce and Economic Development, Community and Regional Affairs, and Transportation and Public Facilities) directly involved in ACMP, and chaired by a seventh from DPDP. The purpose of SACCT is to coordinate agency viewpoints on various matters and to act as a mechanism to resolve disputes among agencies and to present a united state viewpoint on matters where such a viewpoint is needed.

The Division of Policy Development and Planning has the responsibility of coordinating all four of these activities. This responsibility is primarily carried out by the Office of Coastal Management within that division, but to avoid confusion, the term DPDP will be used. Many of these activities are to be carried out via contracts for services between DPDP and the servicing agency. DPDP is responsible for all financial matters relevant to ACMP, except that the Department of Community and Regional Affairs is responsible for receiving funds from DPDP and passing them through to the local governments. All local contracts are reviewed by DPDP and approved before they may begin.

DPDP is also given the responsibility for substantive coordination, both by the Council and the Governor. DPDP is to monitor all state and federal coastal activity and is the designated agency for federal consistency. If DPDP should find that a state agency is about to deviate from an ACMP requirement, it will seek resolution through informal means, like SACCT, directly. If this fails, DPDP will request the Council, if time permits, or the Governor, to resolve the matter. The activities described later in this section show how DPDP will be kept apprised of agency activities. The principal responsibilities for coordination are set forth in the Governor's Administrative Order found in Appendix 6.

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Mechanisms Which Provide Coordination Between State Agencies

Mechanism No. 1. Alaska Coastal Policy Council Membership

ACMA provides that policy-level leadership for ACMP will be vested in the Alaska Coastal Policy Council. Since ACMP is based on both state agency and local authorities, the Council membership is composed of representatives from each group. There are nine elected local government officials and seven state agency heads on the Council.

The Council adopts the ACMP regulations and supporting resolutions, participates and advises in the development of grant applications for federal funding to support ACMP, reviews and approves local government coastal management programs, and provides the general leadership for ACMP.

Discussion and participation in development of regulations and local programs, along with overall state program guidance, should limit the occasions where agency conflict occurs in implementation. However, different agency interests and directions will likely lead to occasional conflicts. Should a dispute arise between state agencies and local governments, particularly with regard to the implementation of local programs, the Council will be the forum for resolution, and is equipped with special powers, as described in Chapter 6, to resolve conflicts in the implementation of local programs. The Governor has, in addition, accorded the Council a conflict resolution role in inter-agency conflicts if the statutory deadlines relevant to the conflict allow enough time for Council resolution. If not, as provided in the Administrative Order, the conflict resolution duty passes to the Governor.

The Council is the main coordination mechanism for ACMP, and is also the repository of most of the authority for the program.

With membership of the six departmental commissioners on the Council, ACMP can be assured of state agency participation at the highest policy level. The additional membership of the Director of Policy Development and Planning assures coordination, in that DPDP is the body charged with inter-agency coordination for ACMP and most other state programs related to ACMP (such as HUD 701 planning, OCS activities, remote sensing, and dozens of others).

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Each of the commissioners, and the DPDP Director, are also represented at the staff or working level on the state agency coastal coordinating team, discussed under Mechanism 4 in this section.

Mechanism No. 2. Implementation and Enforcement

Both the Alaska Coastal Management Act and the ACMP Regulations call for state agencies to operate their programs and permit systems consistently with ACMP provisions. Simple consistency of agency action is only a part of ACMP implementation. The agencies must assure that the proposals of third parties over which the agencies have control are also consistent.

The "ACMP provisions" mentioned above include the policies and objectives of the Alaska Coastal Management Act, the ACMP Regulations codified in 6 AAC 80 and the approved coastal programs of the districts. All agencies, including those not represented on the Council, will be made aware of additional ACMP provisions by OCM, and a period of time (six months is allowed by ACMA) will be provided for each agency to make whatever internal adjustments will be needed to implement the new provisions. One particular type of ACMP provision deserves further discussion. This is the district program of a Coastal Resource Service Area in the Unorganized Borough. The service areas will have no powers with which to implement their programs. This burden will fall entirely on the state agencies. Additional procedures, regulations and other tools will have to be developed to provide for coordination in the implementation of service area programs.

A basic obligation to act consistently with the ACMP provisions is established in the Act and the ACMP Regulations. An Administrative Order will be promulgated by the Governor to provide procedures for meeting this obligation. Basically, each agency will examine its internal workings and make such changes and develop procedures as needed to assure consistent actions.

Within a few months after the Order is promulgated, the primary agencies will respond with reports to show how they will be carrying out their ACMP obligations.

The role of OCM and DPDP will be two-fold in the management system. First, DPDP will be the designated agency for review of federal consistency matters. All federal initiatives and permit requests (for federally-

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issued permits) will be sent to DPDP for circulation via the A-95 Clearinghouse. DPDP will analyze the comments resulting from the review and make a consistency finding on the matter. This will not replace or circumvent existing channels between state agencies and federal agencies. Such procedures as the Department of Fish and Game's role in the Fish and Wildlife Coordination Act or the Department of Environmental Conservation's Sec. 401 certification powers will not change, except to the extent that the activities under these related federal programs can be better coordinated with ACMP procedures.

The second role of DPDP will be in the direct state management system. To the extent that a particular agency may request, DPDP will make consistency findings for state permits or other state activities on behalf of that agency. Those state agencies which wish to make consistency findings on their own behalf will do so. Another DPDP responsibility in this regard will be to monitor statewide consistency findings and to mediate conflicts between state agencies over consistency matters. If DPDP cannot bring resolution to a difference of opinion between itself and another state agency, or between two or more other state agencies, the matter will be taken to the Alaska Coastal Policy Council for resolution. If statutory time limits for agency action on permits make it impossible for the Council to act in time, the matter will be resolved by the Governor.

The ACMP management system is intended to operate on the following principles:

- a) Agency opinions on a subject clearly within the agency's area of expertise will generally carry more weight than opinions of others on the same subject.
- b) No additional time will be added to existing permit systems. Consistency findings and decisions must be reached within existing time frames.
- c) Maximum involvement of local governments and federal agencies, as well as other state agencies, must be sought. Agency permit systems are now more than tools to serve the agencies' original missions; these systems are now tools to serve the purpose of ACMP as well. ACMP is based on multilateral, coordinated decision-making, and this concept should extend to all state agency actions

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in ACMP.

The Administrative Order requires state agencies and DPDP consult with local governments if they would be affected by a pending action. This is particularly true if the pending action might conflict with an approved local coastal program. In general, the A-95 Clearinghouse review system will be used to keep local governments up to date on the activities of state and federal agencies. In addition, DPDP and the state agencies will contact the affected local governments directly if the pending action is a permit or other action that would affect a land or water use.

Mechanism No. 3. Delivery of Information

The involved state agencies have been developing a great deal of information over the last four years of ACMP development. This came mostly in response to the agencies' own coastal management needs and the need for data to develop the ACMP boundaries. The guidelines and standards require a great deal more information to be produced, primarily for the benefit of the districts, but certain of the regulations specifically mention state agencies and obligate them to produce additional information. The information to be produced under this function is aimed at producing better district programs, but the information may be of use to all ACMP participants. Another aspect of information provision must be remembered as well: delivery of information is the primary vehicle for communicating the state and national interest. More specifically, the reasons for delivery of state agency information are:

- a) There is an obligation upon the districts to consider and provide for uses of state concern. The opinions of individual state agencies are important in this regard and should be delivered without delay.
- b) The districts are obligated to follow the ACMP standards for uses, activities, habitats, and other subjects. The policies expressed in the ACMP standards are expressions of state policy, adopted by the legislature. In order for the districts to comply with the standards, they will need information relevant to the subjects of the standards. To comply with the habitat standards, for example, the districts will need to know where the habitats are.

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- c) The districts are generally obligated to solicit the views and concerns of all persons and agencies who may have responsibilities in the district or who may be affected by the district program.

Agencies are encouraged to develop and disseminate any relevant information that will serve any of these three reasons. OCM will continue to contract with each individual state agency to obtain and make available specific categories of information as shown on the list below. The following list of information products is derived from an examination of the ACMP standards, speculation as to the other needs of the districts and the recent history of the types of information that the state agencies have been able to deliver under past and current contracts.

OCM's contract with each agency will contain standards for the format and content of information to be delivered, as well as a schedule for areas of the coast to be examined. Also, it is generally intended that the information to be delivered by the agencies be material; that is, available through existing literature, or is within the knowledge of the agencies' personnel. Original research and study can be funded, but only under special circumstances.

This list is tentative, but will serve as the basis for draft grant applications and agency contract negotiations. A final list will result from approved federal grants and finalized contracts between OCM and the providing agencies.

Department of Fish and Game

1. Maps showing habitats;
2. Maps showing anadromous fish streams, lakes and rivers, along with existing management policies and processes used to identify new anadromous fish areas;
3. Maps showing existing refuges, sanctuaries, and critical habitats, along with existing management plans and policies for such areas;
4. The state's existing policies for harvesting of fish and wildlife by region;
5. Maps showing known subsistence and commercial fish and wildlife usage areas;

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6. Existing and proposed hatchery sites, aquaculture sites, and monitoring and research sites;
7. Distribution and abundance of coastal fish and wildlife; and
8. Ecosystem information that can be used by the districts in setting their district coastal boundaries.

Department of Natural Resources

1. Land status and ownership;
2. Mineral and mining sites, leases, prospects, and existing policies;
3. Existing and proposed parks, waysides, historical and archaeological sites and resources, and their policies;
4. Hazardous areas, potential hazards and hazard policies;
5. Energy resources, development sites, and related information;
6. Timbered areas, and policies.

Department of Environmental Conservation

1. Existing air pollution sources;
2. Existing water pollution sources;
3. Existing solid waste problem areas;
4. Existing and proposed sewage treatment facilities;
5. Existing and proposed public water supply facilities;
6. Existing and proposed solid waste facilities.

Department of Community and Regional Affairs

1. Sites under consideration for the Development Cities Act;
2. Energy facility sites as known or recently projected;
3. Existing and projected onshore marine industry sites;
4. Cultural sites and resources; and
5. A list of issues and problems confronting new community development and the state's interests and involvement in each community.

Department of Commerce & Economic Development

1. Existing commercial and industrial sites and facilities, and new ones proposed by others;
2. A process for identifying potential industrial and commercial sites;

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3. A list of site requirements for various types of commercial and industrial facilities;
4. A list of municipal services needed by various types of commercial and industrial facilities; and,
5. Forecasts and demand indicators for various economic sectors.

Department of Transportation & Public Facilities

1. Existing and proposed transportation routes and facilities;
2. Existing and proposed public buildings and facilities;
3. Existing policies for routing, design and construction of various facilities.

This list may not include all of the categories of information that the state agencies would like to deliver, and if so, the list may be lengthened and changed in the contracting process.

Mechanism No. 4. State Agency Coastal Coordinating Team

To improve interagency coordination, particularly with respect to unified expressions of the state interest, the role of the group formerly known as the Regional Planning Team and now renamed "the State Agency Coastal Coordinating Team" (SACCT) has been redefined. The primary purpose of SACCT is to bring together the views, policies, authorities, activities, and plans of the state agencies in a unified state perspective. This will be of benefit to both the agencies and the local governments.

Activities

To fulfill this purpose, SACCT will act as a coordinating body to devise unified state positions on Uses of State Concern and unified state recommendations for Areas Which Merit Special Attention. These two items are tools or vehicles for expressing the state and national interests. Additionally, the team will highlight inter-agency conflicts and seek, along with DPDP generally, to resolve the conflicts. These are discussed in greater detail below:

1. Uses of State Concern. Each agency team member will identify uses of state concern on a site specific basis. The product of this effort will be displayed on convenient maps, accom-

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panied by narrative to show why the particular uses were chosen. These maps will be prepared on a regional basis and the product for each region will contain a narrative overview of state concerns in the region.

2. Areas Which Merit Special Attention. On the same maps mentioned above, the team will also present AMSA recommendations which reflect agency consensus. There will be narrative accompanying the maps to show why the recommendation is made and suggested management policies for the AMSA recommendations.
3. Conflict Identification. In the course of the activities above, the team may encounter areas of the coast where agencies disagree as to proper use. These conflicts will be shown on the maps mentioned above as well. To the extent it can, the team will attempt to resolve the conflicts between state agencies. State-federal, state-local, and other possible conflicts will also be shown.

These three activities, and the map and narrative output from them, constitute the primary workload of the team. To the extent it can, the team may produce the above maps and narrative in polished documents, but the basic products are expected to be presented on existing, easily obtained maps, as quickly as possible.

Operation of the Team

The team members are mid-level agency employees from each of the six line agencies represented on the Alaska Coastal Policy Council (Natural Resources, Environmental Conservation, Transportation and Public Facilities, Community and Regional Affairs, Commerce and Economic Development, and Fish and Game). The team members coordinate their agency's activities with respect to AMSA's and Uses of State Concern (as well as with agency activities under the information function). The intra- and inter-departmental roles of the team members are shown in more detail below:

1. Intra-Agency Coordination. Each team member serves as the focal point for coastal information within the agency. This is a two-way process. It is the responsibility of the member to inform his agency's offices and divisions (and field offices if they exist) of the progress, plans, and activities of SACCT and ACMP in general. In the other direction, the team

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member will obtain and compile the various offices' and divisions' viewpoints, information, plans, etc. and pass this on to SACCT. (Note: under Mechanism No. 2, Information, though the agency may have another person take the responsibility to deliver agency information to the local governments, the SACCT representative must assure communication between SACCT and the individual parts of his own agency.) If an intra-departmental conflict arises, the SACCT representative should be in a position to initiate a resolution of the conflict.

2. Inter-Agency Coordination. Inter-agency coordination flows two ways as well. Once SACCT decides its needs, it is the responsibility of each team member to return to his department and either collect information or canvass the expertise of his department for information which is applicable to the particular problems or issues that SACCT has selected for resolution or presentation of a united agency viewpoint. Conversely, it is the responsibility of each team member to assure that all tentative positions and statements proposed by SACCT have been reviewed by his agency and found consistent with his agency's perceptions, policies and plans. If inter-agency disagreements arise, it is the responsibility of the team member to acquaint his commissioner with the nature of the matter so that the commissioners as a group can resolve it.

Special Projects

As noted above, SACCT's main charge is to present a unified state view on Uses of State Concern and Areas Which Merit Special Attention in the form of maps and text for the use of coastal resource districts. This presentation is supposed to occur as quickly as possible; however, the team may be asked to prepare more formal presentations of this information, along with other information on specially prepared maps for certain regions. It may also happen that SACCT is viewed as a useful body for other coastal projects as well. The commissioners may collectively ask SACCT to perform additional tasks as the need arises.

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Organization

As noted, SACCT consists of representatives of the six line agencies sitting on the Alaska Coastal Policy Council, and a seventh representative from DPDP who also acts as the chairman for the team. The team's overall direction and policy are set by the six commissioners and the DPDP Director. Administratively, the chairman for the team schedules the meetings and activities and handles the team's correspondence and products. Each agency will be funded directly by OCM to participate on the team. This funding will be to support approximately one-half of a mid-level employee for each agency. OCM will also fund the position of the chairman, housed in DPDP, and will further provide the chairman with a contractual budget which can be used to contract for additional work necessary to produce products of the team. Such contracts could be for map work, printing, etc. The chairman may contract with individual agencies or outside providers as necessary.

TABLE 1.

FACILITIES IN WHICH THERE MAY BE A NATIONAL INTEREST

<u>USES</u>	<u>ASSOCIATED FACILITIES</u>	<u>ASSOCIATED FEDERAL AGENCIES</u>	<u>RELATED ACMP PROVISIONS</u>
National Defense & aerospace	Military bases & installations; defense manufacturing facilities; aerospace facilities	Department of Defense; National Aeronautics and Space Administration	AS 46.40.210(6)(A); 6 AAC 80.040
Energy production & transmission	Oil & gas rigs; distribution & transmission facilities; power plants; deep-water ports; LNG facilities; geothermal facilities; coal mining facilities	Department of Energy; Department of the Interior; Department of Commerce; Department of Transportation; Corps of Engineers	AS 46.40.210(6)(A); AS 46.40.210(6)(B); AS 46.40.210(6)(C); 6 AAC 80.040; 6 AAC 80.070; 6 AAC 80.130
Recreation	National seashores; parks; forests; large & outstanding beaches & recreational waterfronts	Department of the Interior; Department of Agriculture	AS 46.40.210(1)(C); AS 46.40.210(6)(A); AS 46.40.210(6)(E); 6 AAC 80.060
Transportation	Interstate highways; railroads; ports; aids to navigation, including Coast Guard stations	Department of Transportation; Department of Commerce; Corps of Engineers	AS 46.40.210(6)(A); AS 46.40.210(6)(D); 6 AAC 80.040; 6 AAC 80.080
Regional water treatment plants	Sewage treatment plants; desalinization plants	Environmental Protection Agency; Department of the Interior	AS 46.40.310(6)(B); 6 AAC 80.040; 6 AAC 80.140

TABLE 2.

RESOURCES IN WHICH THERE MAY BE A NATIONAL INTEREST

<u>RESOURCES</u>	<u>MAJOR FEDERAL LEGISLATION</u>	<u>ASSOCIATED FEDERAL AGENCIES</u>	<u>RELATED ACMP PROVISIONS</u>
Water	Federal Water Pollution Control Act	Environmental Protection Agency; Corps of Engineers	6 AAC 80.140
Air	Clean Air Act	Environmental Protection Agency	6 AAC 80.140
Wetlands	Federal Water Pollution Control Act; Fish & Wildlife Coordination Act	Corps of Engineers; Environmental Protection Agency; Department of the Interior; Department of Commerce	AS 46.40.210(1)(A); AS 46.40.210(1)(B); 6 AAC 80.040; 6 AAC 80.130
Endangered flora & fauna	Endangered Species Act	Department of the Interior; Department of Commerce	AS 46.40.210(1)(A); AS 46.40.210(1)(B); 6 AAC 80.130
Floodplains & erosion hazard areas	Flood Insurance Act	Housing & Urban Development; Corps of Engineers; Department of Agriculture	AS 46.40.210(1)(F); AS 46.40.210(6)(B); 6 AAC 80.040; 6 AAC 80.050
Barrier islands & lagoons	Coastal Zone Management Act	Department of the Interior; Department of Commerce; Corps of Engineers	AS 46.40.210(1)(E); 6 AAC 80.040; 6 AAC 80.050; 6 AAC 80.130
Historic & cultural resources	National Historic Preservation Act	Advisory Council on Historic Preservation	AS 46.40.210(1)(A); AS 46.40.210(6)(B); 6 AAC 80.120; 6 AAC 80.150
Wildlife refuges & reserves	Pitman-Robinson Act; Dingell-Johnson Act; Land & Water Conservation Fund Act	Department of the Interior; Department of Commerce	AS 46.40.210(1)(A); AS 46.40.210(1)(B); AS 46.40.210(6)(A); 6 AAC 80.130

Table 2. continued

<u>RESOURCES</u>	<u>MAJOR FEDERAL LEGISLATION</u>	<u>ASSOCIATED FEDERAL AGENCIES</u>	<u>RELATED ACMP PROVISIONS</u>
Areas of unique cultural significance	National Historic Preservation Act	Advisory Council on Historic Preservation; Department of the Interior	AS 46.40.210(1)(A); 6 AAC 80.120; 6 AAC 80.150
Minerals	Mineral Leasing Act	Department of the Interior	AS 46.40.210(6)(A); 6 AAC 80.110; 6 AAC 80.130
Prime agriculture lands	Homestead Act	Department of Agriculture	6 AAC 80.130; 6 AAC 80.140
Forests	National Forest Management Act	Department of Agriculture; Department of the Interior	AS 46.40.210(6)(A); 6 AAC 80.130; 6 AAC 80.130
Living marine resources	Fisheries Conservation & Management Act; Marine Mammal Protection Act	Department of Commerce; Department of the Interior	AS 46.40.210(1)(A); AS 46.40.210(1)(B); AS 46.40.210(6)(E); 6 AAC 80.040; 6 AAC 80.090; 6 AAC 80.130

Chapter 9: The Future of the Alaska Coastal Management Program

Section (a): Introduction

With the completion of state coastal program development, the focus of attention for the next few years and beyond will be the management of coastal areas and uses, along with completion of district program development. A substantial increase in the amount of federal funding is expected. Management will involve the implementation of the ACMP Guidelines and Standards at the state level and the implementation of district coastal programs. Management will also involve other important initiatives such as improving fisheries management. This Chapter focuses on the direction of the ACMP in the next few years in terms of the work that needs to be funded and completed, and the agencies expected to be involved.

Section (b): Program Implementation Goals

1. Direct Management of Coastal Resources

The ACMP moved into direct management in July of 1978 when the legislature approved the ACMP Guidelines and Standards. From that point, the state agencies began issuing permits and making other decisions on the basis of the policies expressed in the guidelines and standards and the ACMA. As time progresses, the amount of management done according to ACMP policies will increase. Federal approval of the ACMP will give the state the powers of federal consistency provided in Section 307 of the CZMA, which is another important device for assuring coherent and consistent management of Alaska's coastal resources. State and federal agency consistency with ACMP policies and the regulatory structures at both levels of government, are the basis of the ACMP management system, as described in Chapter 6. Detailed management of coastal resources will come when the local government coastal programs are completed and approved. When this process is complete all three levels of government will be making their decisions which affect coastal resources according to the same policies.

Chapter 6 shows in detail how the state agencies are now managing Alaska's coastal resources. A few improvements will be made in the near future as a result of the draft administrative order contained in Appendix 6. When this order is promulgated, the responsibilities and procedures for operation of the state agency management structures will be

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clarified, but the actual authority for the management of coastal resources by state agencies according to the ACMP policies is now in place. The administrative order will take effect shortly before federal approval of ACMP.

All state agencies are bound by the ACMP standards, and must conduct their activities consistently with them. Three agencies are especially important in assuring that coastal development conforms with the standards. These are the Departments of Environmental Conservation, Natural Resources, and Fish and Game. They are making special efforts to involve their field and operational staffs in ACMP, and will do so for district programs as well. It is not known yet whether significant increases in field or operational staffs will be needed to assure adequate application of the ACMP policies, or whether improved intra-agency communication and coordination will suffice. If the former proves to be needed, ACMP may be in a position to augment field and operational budgets.

DPDP will be playing an important role in direct management as well. The A-95 Clearinghouse will be an essential coordinative mechanism for federal consistency, as discussed later and in Chapter 6, but the clearinghouse will also serve to assist state coordination. The Office of Coastal Management is specifically charged to review state actions for consistency with the ACMP and to involve the Council in such matters. Rather than institute a new and potentially cumbersome system on top of the existing review systems, OCM, as a part of DPDP, will use the systems which DPDP already has in place. The administrative burden on the clearinghouse will increase substantially as a result of ACMP, as more issues, proposals, and matters will be circulated through the system. In light of this, ACMP will be providing financial support to the clearinghouse.

With federal approval of ACMP, the federal agencies which make coastal land and water use decisions in Alaska will have a new set of policies which must be considered. It is expected that the federal agencies will maintain and expand the liaison arrangements they now have with ACMP. In addition to the overall consistency procedures, memoranda of understanding are being prepared with each agency to resolve the details of their participation in ACMP. Some of these will be finalized before federal approval of the ACMP occurs. These memoranda will clarify the specific procedures needed to assure that the differences between

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federal agencies are accounted for in the federal consistency function of ACMP.

Certain federal permit systems will be particularly important to the fulfillment of ACMP objectives. Most notable of these are the Corps of Engineers Section 10 and Section 406 permit systems. The Corps can anticipate a time when it will receive a single, official state opinion on applications for these two types of permits, and the state expects better coordination of the review of these permits. Federal agencies will also be able to see their own objectives supported by ACMP.

The Office of Coastal Management will continue to coordinate the direct management efforts through its three main vehicles: administration of funding for the program; coordination and review through A-95 and other coordination devices of DPDP; and by serving as staff to the Alaska Coastal Policy Council.

2. Completion of District Programs

As discussed in Chapter 3, many local governments are now involved in coastal planning activities. However, no coastal resource service areas have yet been formed in the unincorporated part of the state, and many local governments are just at beginning program development. While the amounts of money made available to local governments in the past years of the program have been adequate to meet the needs of communities which had a high interest in the program or which were facing large or new coastal impacts, the funding has not been adequate for general program development by all coastal resource districts. The federal program implementation funds will allow for a substantial increase in funds for local district program development.

Under the ACMA, programs for existing districts must be completed by December 1979. It is expected that many of the programs will be completed on this date, but refinements will continue. Those programs which are completed and approved by the Council and legislature will then be implemented by the appropriate local governments. Federal funding may be used for implementation, as well as for program development.

District programs in the Unorganized Borough will take longer to establish. A coastal resource service areas has thirty months to

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develop and submit a program after the service area has been formed. While a time limit has been set in the law for when service areas must be established. It is expected that if most are in place in 1979 then the program development effort will continue into the early 1980s. Once approved, a service areas program must then be implemented by state agencies, involving a substantial new workload.

Local governments will be responsible for writing their district programs. State agencies will have the responsibility of providing necessary information and technical assistance to the districts. Federal agencies will review and comment on district programs and provide information and assistance to the districts. The Council, with assistance from staff will be responsible for assisting districts in their local program efforts, reviewing and approving district programs, ensuring that all interested parties are involved during district program development, hearing and settling complaints concerning coastal management between various parties involved, and submitting resolutions to the legislature requesting necessary revisions and amendments to the Act and regulations.

Information and Technical Assistance

In order to write comprehensive local programs, and to institute coordinated state management, information and assistance will be needed by the districts. It will be provided by state agencies, which are obligated by the ACMP to provide it. Chapter 8 contains a list of the types of information that will be provided to the districts by state agencies.

In the process of providing this information, agencies may discover areas which have particular values or unique situations. These may be proposed as AMSA's to the district and would be accompanied by the information required for AMSA recommendations in the ACMP regulations.

Distribution of Publications Produced by ACMP

In addition to the information and data provided to districts discussed above, there have been many reports, summaries and maps

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produced for the ACMP over the past four years which are now available to state and federal agencies and the general public through a pilot project at the Arctic Environmental Information and Data Center (AEIDC) sponsored by RALI-USGS. Alaska has a difficult problem when it comes to distribution and receipt of materials due to its size, weather and transportation difficulties. OCM's information distribution system at AEIDC is an attempt to cope with the situation. Depending on how well received this service is, OCM is considering expanding the service to include a research assistant who would be available to search for materials requested by the districts.

State Agency Coastal Coordinating Team Effort

In view of the magnitude of the original regional planning task, the lack of time before districts are required to submit their local programs, and the fact that the priority of the ACMP is now district programs, for the time being the thrust of the original regional planning effort has been redirected. The purpose of the State Agency Coastal Coordinating Team (SACCT), formerly known as the regional planning team, is to bring together in a unified state perspective, on a site by site basis, the views, policies, authorities, activities and plans of the different state agencies dealing with Alaska's coast. By presenting the districts with a comprehensive state perspective concerning coastal management for their particular area, the state agencies will be ensuring that the interests of the state are being considered in the drafting of local programs.

The SACCT consists of seven members: a chairperson from the Division of Policy Development and Planning and one member from each of the state departments represented on the Alaska Coastal Policy Council (Fish and Game, Natural Resources, Environmental Conservation, Community and Regional Affairs, Commerce and Economic Development and Transportation and Public Facilities).

The team will do three things: it will develop and identify on a site specific basis uses of state concern applicable to the coastal areas of the state. Priority for study will be given on the basis of actual local coastal planning progress at the time and potential development of a program at a later date. Second, the team will present on maps accompanied by narrative, AMSA's which they perceive as being in

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need of designation by the districts. In this category as well, they will recommend general and specific state management policies for those AMSA's identified by the team. The third activity which the team will undertake is identification of dissimilarities in agency perspective regarding uses of state concern, areas meriting special attention and other areas as yet undetermined. Although resolution of conflicts by the team will not always occur, it will highlight, analyze and present the disagreement to their Commissioners for further deliberation and resolution.

Council and Staff Activities

With regard to the development of district programs, OCM has established and is implementing a series of procedures to allow and encourage the participation of all interested parties in the development of district programs. Procedures have been developed:

- a. to notify state and federal agencies and the general public of the start up of district programs in an effort to encourage agency participation (OCM is keeping a record file of all ongoing district programs and is responsible for overseeing the coordination of participation by state and federal agencies and the public in local programs);
- b. to hear complaints and handle arbitration of disagreements between various levels of government and interests in the private sector;
- c. to receive, review, adopt, and forward district programs from staff to the Council to the legislature.

3. Implementation of District Programs

After a local government has successfully developed a coastal program, it will become eligible for additional funds to implement the program. This can range from funding to support simple municipal coastal governance, to further work on detailed aspects of the program. An example of the latter may be detailed management programs for Areas

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Which Merit Special or to additional local attention to certain issues which were treated on a general basis in the initial program and deserve more attention.

Local coastal programs will be implemented through a partnership with state agencies, but the devices that will be used are the familiar techniques used for implementing local comprehensive planning efforts. These include zoning or other forms of land use management, building codes, capital improvement programs, subdivision ordinances and other applications of the local police and proprietary powers.

Over the next three years, most of the existing local governments should complete the development of their programs and move into the implementation phase. It is OCM's intent that the amounts of federal and state funds allocated to the local government participants in ACMP be relatively constant over the life of the program. Thus, local governments should be able to look forward to continuous funding after they complete their initial programs so the basic programs may be improved and implemented.

In the case of coastal resource services areas, ACMP will not be able to provide funds to the service areas for program implementation as that function will be undertaken by state agencies. Funding will flow, in some degree, to the state agencies for service area program implementation. However, funding could continue to the service areas for program enhancement and monitoring. OCM would expect that funding of this type would be less than the amount used to develop the basic service area program.

An important feature of the ACMP management system is state implementation of and consistency with the local programs when they are approved and have become a part of the ACMP. As described in Chapter 3, the state agencies will be heavily involved in the development and approval of the district programs. When these programs take effect the agencies will have to incorporate the district programs into their other criteria for permit issuance and other actions. There are two types of local programs involved in this context. The first is the program of a local government which has planning and zoning powers. In this case, the state agencies are partners with the district in the implementation and application of the local program. This will require the establishment and operation of coordination procedures between the agencies and

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the individual local governments involved. It can be expected that much of this will occur at the field office level of the state agencies. The second situation is state implementation of a local program for an area which does not have planning and zoning powers. The coastal resources service area, organized under Article II of ACMA will be the most typical example of this situation. Here, the state agencies will bear the full burden of assuring that the local program is implemented. It is thought now that the planning boards which are created along with the service areas will stay in existence after the service areas program is approved for the purpose of monitoring the effectiveness of state agency implementation and to act as a forum for state decisions relevant to the service area program.

At the state level, the primary agencies for implementation will have to take several actions to prepare for implementation of the service area program. This could range from notification to field personnel and operational personnel for some agencies to new regulations for others, as well as establishment of mechanisms to coordinate with the residents of the service areas during the implementation of the service area program. Agency expenses for this type of activity will begin during the final stages of development of the service area program, and will increase after the program is approved. This type of activity should start by 1980.

4. Coordination of Government Actions

A general activity that all the primary agencies (those represented on the Council) will continue is coordination with ACMP activities of all types, whether developmental or management. Agency coordination will range from developing the agency's viewpoint on a particular state or federal permit to developing agency input to local coastal programs still under development. In either case, the agency will have to obtain the comment of its operating divisions, field offices and central staffs. Field trips, visits with other agencies and research may be needed. All of this is the cost of coordination, and for coordination to succeed, these activities must be supported by ACMP in both financial and procedural ways.

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5. Improving Coastal Management

Special planning elements have been subject to attention over the time of program development and management. New elements have been the result of changes in the Federal Coastal Zone Management Act, discovery of need for expanded services on the part of local and state agencies and the availability of new funding to meet other opportunities.

Information Systems

At the present time, DPDP is conducting a user needs survey in the hopes of clarifying what will be the most efficient way to establish a computerized data bank for the state of Alaska. When the survey is completed, the state will begin to study which type of information system will best serve the needs of the greatest number of people.

Fisheries Management Planning

Alaska has an important fisheries resource which has been of economic significance to the state for decades, and promises to be even more significant in the future. The passage of the Fisheries Conservation and Management Act creating the 200 mile fisheries management zone around the U.S. has greatly increased the fisheries resource available in Alaska. This Act impacts Alaska significantly. It will probably lead to new onshore support facilities for the expected increase in the harvest of bottom fisheries, greater coordination between state and federal fishery management agencies, and international coordination between the U.S. and Canada, and between the U.S. and other countries which have in the past made use of the fishery resources of the Alaska Continental Shelf.

These events, in combination with existing Alaskan concerns regarding the habitat of anadromous fish and the sharing of fishery resources among sport, commercial and subsistence users, give rise to the need for comprehensive planning for Alaska's fishery resource.

In cooperation with the Department of Fish and Game and other relevant agencies, OCM will develop a procedure for identifying fishery management problems, issues and opportunities, planning goals and strategies, and work which needs to be completed to accomplish the goals.

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This procedure will be the basis for funding.

Energy Facility Planning

Alaska has developed a planning process for energy facilities which are likely to locate in or which may significantly affect the coastal zone. This process is capable of anticipating and managing the impacts of such facilities, but much work has to be done in order for this to be accomplished. Funding will be provided for identification of sites suitable for the location of energy facilities, and efforts will be devoted to further articulation of the process involved in siting and approving energy facilities.

Natural Hazards Planning

Alaska has also developed a planning process for identifying and managing geophysical hazards in the coastal zone. Work funded in this area will involve identification of coastal areas where hazards are likely and further investigation of methods to manage coastal development in hazard areas.

Shoreline Access Planning

Shoreline access needs are part of the ACMP recreation resource planning process. In the next few years, state agencies and districts will receive funding for identification of additional sites where shoreline access is necessary. This information will be particularly useful to districts in development of their coastal management programs.

Section (c): Conclusion

The future of the ACMP is inextricably related to the future of the national coastal management program, which is uncertain at the present. The ACMP is in large part a response to the national interests expressed in the policies of the Coastal Zone Management Act. This response has

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involved substantial federal financial support in the past, and federal funding is vital to the continuation of this response. Alaska has reached a point in coastal management where actual management is taking place, but there is still much to be accomplished. The real promise of coastal management, the legislative and Congressional objectives and expectations will still involve more effort and expense over what has been done at the state and national level to date. Alaska's coastal resources are important to the state as well as to the entire nation and the proper management of those resources should continue to be a matter of national as well as state concern.



**Description of the
Environment Affected**



Part III

PART III: DESCRIPTION OF THE ENVIRONMENT AFFECTED

Section (a) Introduction

Alaska appears in summer satellite photos of the earth as a massive green peninsula, surrounded on three sides by blue oceans. This largest peninsula of the North American continent seems too large to be one of the fifty units known as the United States of America. It looks large and remote enough to be an autonomous nation.

Alaska sprawls longitudinally some 2,400 miles across the North Pacific Ocean. Its westernmost chain of islands is flung so wide that the International Date Line tacks to avoid them. Alaska includes the western and northernmost points of land in North America and spans 1,420 miles from south to north. Even distances of this magnitude do little to illustrate the length of Alaska's coastline. It is the only state bounded by two oceans and two seas. Glaciers have carved many large islands from the mainland and retreated to uncover a shoreline with abundant narrow fjords and craggy headlands. Volcanic activity has formed numerous islands. As a result of its convoluted coastline and vast extent, the marine shoreline of Alaska measures 33,904 miles. This is about one third the total marine shoreline of the United States and its possessions.

The ice-stressed coastal ecosystems of Alaska are unique in the United States, but its diverse coastline includes every ecosystem found in the contiguous states except the tropical.

Alaska's scenic grandeur, wilderness, wildlife, fisheries and human life styles are unique in the country.

Alaska's fertile continental shelf totals 830,000 square miles, or 74 percent of the nation's total. It is an important continental interface between Asian and North American biotic and human communities. There are species and subspecies indigenous to Alaska alone. Many species of migratory fish, birds and marine mammals use the islands, estuaries and coastal streams and ponds for breeding, spawning, birthing and resting. The world's richest commercial fish stocks are found along Alaska's continental shelf.

The unique biophysical character of Alaska's coastal zone is of extreme national and international scientific value. On the other hand, its potential oil and gas reserves are among the largest in the world. Nearly all of the minerals classified as strategic by the Federal government, ranging from antimony to zinc, are found in Alaska. With the advent of the jet plane, Anchorage has become a hub of international air transportation. Because it is situated between the Soviet Union and the contiguous United States, Alaska is of significant value in strategic national defense.

Many of these diverse uses of the coastal zone are conflicting. Opportunities to preserve sections of the coastal zone for future

recreation, education and scientific study are without equal in the United States. Conversely, opportunities to develop the wealth of coastal resources such as oil and gas, mineral, fish and timber are also without equal. Striking a balance between conserving and developing the wild and rich coastal resources of Alaska is the reason for coastal zone management.

Section (b) Climate

In Alaska, climatic extremes are the primary factor in determining the location and intensity of fish, wildlife and human activities in the coastal zone. The geographical breadth of the state results in radically different climates found along its coasts. These climatic conditions also depend on the season, the topography and the different characteristics of the surrounding seas. The three major coastal climatic zones in Alaska are maritime, transition, and arctic.

The maritime climate is found in Southeast Alaska, the Aleutian Island chain, and the narrow coastal strip in between. The Pacific Ocean is the major moderating influence. This climatic zone is characterized by cool summers and mild winters. Temperature variations are relatively slight. The average annual temperature is approximately 40 F in Southeast Alaska and is slightly cooler in the Aleutians. In Southeast Alaska cloud cover and precipitation are persistent. Cloudy skies occur approximately 275 days per year, with rain or snow on 220 to 230 days. Average annual precipitation is about ninety inches in Southeast Alaska, but ranges from 26 inches near Skagway to over 360 inches on Baranof Island. In Southeast Alaska there are 111 to 208 frost-free days per year. However, the overabundance of rain and unsuitable soils prohibits agricultural development.

Between the maritime and the extensive continental climatic zone lies the transition zone. This zone includes the coasts of the northern Gulf of Alaska, western Alaska, and the Alaska Peninsula. Along the Pacific coast the transition zone is narrow. It is a highly variable climatic region being overwhelmed alternately by maritime and continental conditions. The ocean has much less influence on climate along the western coast of Alaska. The transition zone generally has more marked temperature variation, less cloudiness, and less precipitation than is characteristic of the maritime climate. Mean annual temperatures range between 29 degrees F in northwestern Alaska to 39 degrees F in south-central Alaska. Precipitation generally ranges from less than twelve inches per year in the north to about sixty inches in the south. Summer fogs are frequent in the Bristol Bay and Yukon-Kuskokwim Delta regions.

The north slope of Alaska is in the arctic climate zone. At Point Barrow the sun stays below the horizon for 67 days and above the horizon eighty days each year. A persistent frozen condition dominates the climate. Predictably, winters are long and cold, and summers short and cool. The mean annual temperature is about seventeen

degrees F and annual precipitation is from less than four inches (at Barrow) to about seventeen inches per year, sixty percent of which is snow. When the sea ice pulls back from the warmer coast, the moist oceanic influence creates prevailing cloudy and foggy conditions. There are less than ten frost-free days in a year.

Section (c) Natural Hazards

An inventory of Alaskan natural hazards is long and varied. Most of the coastal hazards are common in other state coastal zones, but Alaska hazards are often more widespread or violent than those experienced in more temperate regions. Some natural hazards are instigated by man's disturbance of natural condition or processes. This problem is magnified in Alaska because of the fragile nature of much of the coastal environment.

Strong winds and storms are common throughout the Alaska coastal zone. Broad storm tracks move up the Aleutians into the northern Gulf of Alaska throughout the year, with winds occasionally reaching 75 to over 100 mph. In the mountainous coastline bordering the Pacific Ocean, narrow passes funnel winter winds into dangerous gusts that can continue for weeks. Violent storms often arise with very little warning. In western Alaska summer storms of gale force are common and even cyclonic storms frequent the Aleutian Islands where winds average seventeen to twenty mph year-round. Shemya Island, for example, experiences calm conditions only about nine days of the year.

Visibility is greatly reduced in many areas by ubiquitous torrential rains, blizzards, and fogs. An extreme blizzard condition known as a "white-out" can reduce visibility in winter months to zero.

Navigation is limited by numerous and uncharted sand bars, reefs, and rocky islets. The extreme tidal ranges (14.1 feet at Skagway, 21 feet at Anchorage) in southcentral and southeast affect all activities, especially log dumping or storage, shoreline construction and the location of recreational facilities. Tidal currents as strong as six knots are not uncommon in narrow southeastern straits.

Critical beach erosion is occurring at approximately 35 coastal communities. Most coastal erosion is due to nearshore currents and storm surges, but windblown ice contributes to shoreline erosion in the arctic. Ice erodes annually up to nine feet off bluffs and up to 24 feet off of sand and gravel beaches (backed by bluffs in some locations). The broad coastal flood plains of Alaska are also subject to severe erosion and flooding during spring breakup.

The coastal strip between Cordova and the tip of the Aleutian chain is classified as one of the two highest seismic risk areas in the United States. The 1964 Good Friday earthquake, which registered about 8.5 on the Richter Scale, caused notable tectonic changes in land level over a 70,000 to 110,000 square mile area. The area of crystal

deformation is larger than any such area known to have been associated with a single earthquake in historic times. Maximum subsidence was 7.5 feet; maximum measured uplift was 38 feet. Subsea lifting may have been as great as fifty feet.

The resulting tsunami, another natural hazard, destroyed part or all of three major towns and numerous small villages in Alaska. The seismic sea wave was still four feet high when it washed up on Antarctica less than 24 hours later. Five Alaskan communities (Sitka, Yakutat, Unalaska, Dutch Harbor and Adak) have recorded nine or more catastrophic tsunamis.

About 48 volcanic centers in a 1500 mile coastal arc from Cook Inlet through the Aleutians have been reported active since 1760. Earthquakes and tsunamis are well-known, but equally hazardous to human life and property, are highspeed mud flows and flash flood of suddenly melted ice and snow, both of which can extend many miles. The 1912 eruption of Novarupta on the Alaska Peninsula filled mountain valleys with magma to depths as great as 700 feet. It also expelled 2.5 cubic miles of white-hot ash into the atmosphere. Some of the ash fell on Kodiak, about 100 miles downwind, and drifts up to twelve feet deep were reported. Needless to say, terrestrial and intertidal life was virtually eliminated on Kodiak Island. Corrosive acidic rains are common after eruptions and can also fall hundreds of miles from their origin.

Surging ice is another coastal hazard in Alaska. In the Beaufort Sea, oceanographic and meteorological influences maintain the summer arctic ice pack in a position almost always threatening, if not halting, navigation. In winter the pack ice reaches Bristol Bay regularly; sometimes advancing as far as the eastern Aleutian Islands and covering the entire Bering Sea Continental Shelf. Surging glaciers are an uncommon but potential threat in southern and southeastern Alaska, and one now threatens tanker traffic into Valdez. The gravelly soils of flat, glacier valleys are inviting sites for construction, but occasionally a glacier will surge without warning. The Black Rapids Glacier is an example. Advancing up to 61 meters per day in 1936-37, the terminal moraine nearly blocked the only road link between Anchorage and Fairbanks before the glacier began to recede. Icebergs, split away from the seasonal ice pack or calved from tidewater glaciers in southcentral and southeastern Alaska, are an obvious threat to coastal navigation.

In Alaska, vastness itself is a natural hazard. With few inhabitants and scarce medical services along immense reaches of coastline, even a slight accident can be dangerous. The layer of permafrost on the arctic and western coast of Alaska is a unique natural hazard aggravated by human disturbance. The persistently frozen ground prevents internal soil drainage, forcing water to drain over the surface and accumulate in peaty bogs. Because it is impermeable, permafrost hinders proper functioning of conventional sanitary waste treatment facilities, dispersing pollution over a greater surface area.

Landslides are particularly common along the southern and southeastern coasts because of steep slopes and unstable soils. Snow avalanches are frequent in the spring. Both are often instigated by the removal of vegetation by the construction or timber industries. Less spectacular erosion is initiated by placer mining, overgrazing, agriculture and the use of vehicles on permafrost soils. Solifluction is a peculiar "landslide" occurring in thawed soils underlain by permafrost.

Irregular subsidence, caused by the thawing of frozen soils beneath disturbed vegetation, severely curtails construction and farming activities in arctic and western Alaska. A more widespread subsidence problem may follow the removal of oil and gas reserves in the arctic.

Section (d) Marine Ecosystems

There are six major ecosystems represented in the Alaskan coastal zone. The nearshore and intertidal ecosystems are wave-beaten coast, fjord estuary, tide-mixed estuary, ice-affected Bering Sea coast and the ice-affected Arctic Ocean coast; offshore is the vast continental shelf of Alaska. Almost all of the wave-beaten coasts, fjord estuaries, and tide-mixed estuaries are located on the Pacific coast.

The Pacific continental shelf of Alaska is cut by large undersea valleys and averages a little over 50 miles in width. The continental shelf becomes discontinuous along the Aleutians Island chain but widens in the Bering Sea. Prehistorically a broad plateau bridging Asia and North America, the Bering Sea continental shelf underlies half of the Bering Sea. Most of it is within the 200 mile U. S. fishing limit recently established by Congress. The Arctic Ocean continental shelf averages slightly less than 50 miles in width. Major ocean currents flow north and west around the Gulf of Alaska and along the Aleutian Islands, then northward through the islands and up the western coast. A weak current flows westward along the northern coast. The Pacific Ocean shelf provides habitat for a variety of bottom, pelagic, anadromous, and shellfish species. The major commercial fisheries in the western Gulf of Alaska and the Aleutian Islands are King crab, tanner crab, and shrimp. In much of the Bering Sea, the coldness of the water and seasonal ice cover limit habitat for bottom fish. Perennial ice cover limits marine diversity to near-surface creatures, yet one of the world's largest flatfish and pollock fisheries is located on the southern edge of the Bering Sea shelf. Surface fish stocks, such as salmon and herring, are among the largest in the world. North of Bristol Bay, much of the salmon fishing in the Bering Sea, Arctic Ocean, and large rivers, is for subsistence purposes.

Wave-beaten coasts border about 20 percent of the State's tidal shoreline. These nearshore and intertidal areas are extremely productive because waves, the primary mixing agent, churn nutrients from the sea floor up into the sunlit zone. The waters adjacent to the exposed

headlands of the Gulf of Alaska coast and the rocky Aleutian shores support much greater concentrations of plant and animal life than the mud flats and silty beaches found along most of western and arctic Alaskan coasts. Phytoplankton and the large marine plants (e.g., kelp and clinging intertidal seaweeds) are extremely abundant. Marine animals include high incidence of clinging and intertidal species, such as snails, small crabs, barnacles and mussels. Because of the abundance of food, seabirds, marine mammals, and fish are plentiful.

Fjord estuaries indent most of the State's tidal shoreline (about seventy percent). Productivity and species diversity are influenced by wave action in fjords, but there is little direct pounding and mixing. Fjord estuaries comprise all but the seaward inlets of Southeastern Alaska, Prince William Sound, and Shelikof Strait between Kodiak Island and the mainland. The spectacular fjords of Southeast Alaska are believed to be former drainage sources eroded and deepened by glaciers. Many of the seaways have rocky bottoms over 400 feet deep. These waters become stratified, limiting high phytoplankton production to early spring "blooms." However, local upwelling creates some highly productive areas. Marine animal life is similar to that found in wave-beaten coastal waters but overall production of marine life is moderate to low because of limited seasonal productivity. The hydrography of fjords in association with extended sunlit summer periods, high energy and deep-lying, nutrient-rich waters, offers an unusually good opportunity for aquaculture. Only mollusks cannot be harvested in Southeast Alaska due to the common occurrence of paralytic shellfish poisoning.

About two percent of the tidal shoreline lies adjacent to tide-mixed estuaries and most of this ecosystem is found in Cook Inlet. Tides are the primary mixing agent in Cook Inlet, where tidal ranges and currents are extreme. Anchorage experiences tides ranging up to 30.4 feet. The tidal variance of Turnagain Arm is one of the few places in the world capable of producing tidal-generated power. However, the high suspended sediment loads, bottom instability and present economic factors make tidal power here unlikely. Productivity in upper Cook Inlet waters is greatly curtailed because suspended sediments from glacier streams reduce light penetration. However, lower Cook Inlet is highly productive. Kachemak Bay may be the world's most productive estuarine fishery for its size. Marine mammals and seabirds are not as abundant in Cook Inlet as in many areas of the state, but its shores are an important rest stop for migrating waterfowl.

The coastal waters of the Bering Sea are influenced by sea ice during winters of most years. Bering Sea coasts comprise about four percent of the State's tidal shoreline. Mainland coasts are silty and unusually wide with nearly flat offshore slopes. Near-shore plant productivity, particularly of kelp and eelgrass, is among the highest in the world. In protected areas, extensive mats of eelgrass, kelp, and other attached plants provide critical sea otter and fish habitat and essential staging grounds for migrating seabirds and water

fowl. Other marine mammals are abundant. Seal, walrus, and whales contribute substantially to Eskimo subsistence harvest. Polar bear are seasonally present, following the edge of the ice pack in the northern Bering Sea.

All coasts north of the Bering Strait, approximately two percent of the State's total tidal shoreline, are bordered by sea ice in winters of all years. Pack ice may be just offshore all summer. Most of the coastline is sedimentary and portions have extensive barrier islands and lagoon-forming spits. There is little shelter from ice movement and there are few harbors. The annual productivity is limited by sea ice and is the lowest of the States' marine waters. In a typical adaptation of arctic life to a harsh environment, the spring phytoplankton "bloom" actually begins under and within the sea ice. Lagoons are productive waterfowl and shorebird breeding areas. Many birds and marine mammals represented in this ecosystem are rare or non-existent south of the Bering Sea.

Section (e) Shoreland Ecosystems

Southeast Alaska has about 1,000 of the state's 1,800 named islands, rocks, and reefs (several thousand remain unnamed). Kodiak Island, Nunivak Island, St. Lawrence Island, the six largest islands of Southeast Alaska, and the Aleutian Islands total almost 23,000 square miles. Most of the major seabird and marine mammal rookeries are located on the isolated wave-beaten coasts of islands. Indigenous island species are extremely sensitive to disturbances. Marine mammal and seabird concentrations in rookeries are susceptible to harassment by humans and the environmental changes that accompany man's presence, including marine oil spills, domestic animals, and aircraft noise. The most limited and sensitive habitats in Alaska may be certain islandic seabird breeding colonies. The endangered Aleutian Canada goose and a growing population of once-endangered sea otters also inhabit the remote Aleutian Islands.

Alaskan soils are predominantly infertile; insufficient nitrogen and phosphorus are the major limiting factors.

Most Alaska streams are also less productive than waters at lower latitudes, due to steep stream flow gradients, drastic seasonal fluctuations in water volume, low nutrient levels from unproductive soils and

frozen ground, low temperatures, and the high silt loads of glacial streams.

Essentially all Alaska streams and rivers are migration routes for spawning salmon. In western and northern Alaska, standing freshwater systems have high contents of organic materials with a very slow turnover rate. Freshwater habitats in Alaska, with the exception of several Cook Inlet and Southeast locations, have been preserved in much their original condition as agriculture, logging, dam construction and other human activities have been minimal.

Seven major ice fields blanket almost 20,000 square miles of the immediate Gulf of Alaska and Cook Inlet coastal zone. Glaciers and ice fields once scored most of the jagged coastline, and still play a key role in the hydrologic system of the Pacific coastal zone. Glaciers terminating in tidewater are major components of the physical beauty of the coastline.

There are six major land ecosystems abutting the Alaskan coastline: wet tundra (or marsh), moist tundra, alpine tundra, high brush, western hemlock-Sitka spruce coastal forest, and lowland spruce-hardwood forest. Each ecosystem has characteristic plant and animal populations and life cycles.

The two most extensive wet tundra ecosystems are found on the central arctic coast and on the Yukon-Kuskokwim Delta. In these areas topographic relief is in inches. Sea waves erode the river banks 67 miles up the Kuskokwim River at Bethel. In summer, ponds and lakes are ubiquitous. Many of Alaska's three million lakes with surface areas greater than twenty acres are located in the wet tundra/marsh ecosystems at or near sea level. The net annual biological production in the arctic is low only because the tundra is unproductive seventy to ninety percent of the year. Marshes in more temperate regions of the state are exceptionally productive. Although birds in northern and western Alaska are almost strictly a spring-summer phenomenon, waterfowl and shorebird production in the wet tundra ecosystem is among the highest in the world. The dominant wet tundra plant species are sedges and cottongrass. Only five species form half of the total plant cover in the arctic wet tundra. Up to ninety percent of the annual growth occurs below ground. The tundra ecosystem has few checks and balances because of low plant diversity, and seemingly minor ecosystem disturbances have far-reaching ramifications.

Most of the Arctic Ocean and Bering Sea coastal zone is moist tundra. A slight increase in topographical gradient facilitates runoff so that these tundra soils are less saturated and there is less standing water. Grasses and sedges are the dominant vegetation. Productivity is slightly lower than in the wet tundra. Saprophytes play a dominant role in the arctic and sub-arctic terrestrial food web. Since there are relatively few vertebrate species, most organic material ends up in the soil and is decomposed by dense populations of bacteria, fungi and soil invertebrates. Small mammals such as lemmings, because of their abundance and year-long

residence, have the major above-ground impact on vegetation. During population peaks, approximately every three years, lemmings consume over one-third of the annual above-ground primary production in the arctic.

Beach ridges surrounding aquatic habitats, serpentine barrens, limestone outcrops, marshes, sloughs and other ecologically important and fragile regions in the arctic and western coasts provide habitat for unique species of plants and animals. Sandy dune soils on the coast provide burrow and den sites for mammals ranging from arctic ground squirrel to wolf. Coincidentally, these dry soils are favored sites for sand and gravel removal and construction.

Breeze-swept beaches afford insect-free habitat attractive to caribou and reindeer in the summer. Other typical coastal mammals are grizzly bear, wolf, wolverine, arctic and red fox, weasel, and lemmings. There are no reptiles or amphibians in the Arctic or Western Alaska (only about three amphibians are found in coastal Alaska, all in the southern and southeastern regions).

Most of the coastal alpine tundra ecosystems are found on mountain ranges and on exposed ridges in the Aleutian Islands and the Alaska Peninsula. This ecosystem consists of barren rocks and rubble interspersed with low plant mats, both herbaceous and shrubby. Ecological diversity is low. Regeneration is extremely slow. Some lichens may require over sixty years to recover after over-use or trampling.

The most extensive high brush ecosystems in the coastal zone are on the Seward Peninsula near Nome, along the Alaska Peninsula, and on western Kodiak Island. Usually these dense coastal brush systems are alder thickets, often having a well-developed layer of grass and ferns below. Most rivers in northern and western Alaska are lined with high brush, usually willow. Dense populations of black-tailed deer are located in high brush habitat on Kodiak Island. High brush ecosystems are preferred seasonal habitats for brown (grizzly) bear throughout Alaska because of the abundant berry crops.

Most of the coastal zone east of Cook Inlet is western hemlock-Sitka spruce coastal forest ecosystem. Mainland areas have considerable alpine tundra but Prince William Sound and southeast Alaska are mossy, temperate rain forests. This forest produces 95 percent of the commercial timber cut in Alaska and contains over 80 percent of the saw timber volume. Typical coastal mammals are black-tailed deer, brown bear, mink and land otter. Most of the world's bald eagle population inhabits southeast Alaska.

Lowland spruce-hardwood forest meets the coastline only in upper Cook Inlet and on the northern Kenai Peninsula. Willow scrub covers extensively burned areas on the Kenai Peninsula and this secondary growth supports one-third of the state's moose population. Kenai moose are the largest in the world. Most of the lowland spruce-hardwood forest has been cleared in the fertile Matanuska Valley and in the Anchorage bowl area. Because productive bottom lands in Alaska are the prime habitat for large mammals, populations of moose, caribou and bear have been reduced by this displacement.

Section (f) Threatened or Endangered Species

Alaska hosts a number of threatened or endangered species which receive special management attention. Well-known are the peregrine falcon, the Aleutian-Canada goose and the bowhead whale. Other marine mammals on the Department of Interior's list of such species are the humpback whale and the gray whale. The blue whale is also endangered and is an infrequent visitor to Alaskan waters. Interestingly, the brown bear is considered a threatened species in the lower 48 and in certain other countries, but is a thriving species in many places in Alaska. Southeast Alaska hosts a healthy population of bald eagles which have special protection under the Bald Eagle Protection Act of 1940, which not only protects the bird itself from taking by humans but protects the habitats and nests of the bird as well.

Section (g) Commerce and Economic Development

Since the Caucasian discovery of Alaska some two centuries ago, the history of economic development has been a recurring cycle of boom and bust. Fortunes found in Alaska were spent somewhere else. In 1743, two years after the first Russian land-fall, intensive hunting of sea otters began. For over 100 years, furs were the major resource harvested. Vulnerable sea otter and fur seal populations were severely reduced. Whaling was profitable in the late 19th century until the commercially valuable species were eliminated. In the mid-19th century mining began on the Kenai Peninsula. Between 1874 and 1914 fourteen major gold discoveries occurred in Alaska. Most were in the interior, but three of the largest were in Nome and near Juneau. Meanwhile salmon canneries appeared in southeast Alaska and the peak salmon catch, 126.4 million fish, occurred in 1936. Coincidentally, farming began at the head of Cook Inlet in the fertile Matanuska Valley. Commercial logging began in southeast Alaska. As a result of World War II and the temporary Japanese occupation of the Aleutian Islands, a massive military buildup began in Alaska and continued through the Cold War of the 1950's and 1960's. The total Federal budget in Alaska continues to play a significant role in the state's economy. In 1968 the discovery of immense oil and gas fields on the arctic slope and subsequent outer continental shelf leases by the Federal government generated the present economic dominance of oil and gas fields on the arctic slope, and subsequent outer continental shelf leases by the Federal government generated the present economic dominance of oil and gas development. Because of the current energy crisis and measures by the federal government to lessen dependence on foreign oil imports, Alaska's resources are still figuratively and literally flowing out of the State.

In a recent economic survey (McDowell 1975), 55 coastal communities were asked to rate the relative importance of selected industries in their area. Of these communities, 24 rated commercial fishing and fish processing and 10 rated subsistence hunting and fishing as the major economic factor. Important secondary economic influences, in their respective order, were: tourism, state government and the federal government including military.

The total value of all minerals produced in Alaska reached a record high of \$524 million in 1975, representing a twenty percent gain over 1974. Oil and gas accounted for three-fourths of all mineral production. However, the value of sand and gravel production reached over \$100 million, almost double the 1974 figure as a result of private construction on the trans-Alaska pipeline. Depending on locational factors, excavating sand or gravel can devastate fish and wildlife populations dependent upon limited stream bed or coastal bluff dune habitats.

Oil and gas exploration and production is expected to show a slow but steady increase. According to continental shelf lease schedules under discussion and consideration, Federal lease sales are likely in the Gulf of Alaska, Kodiak, Cook Inlet and Norton Basin regions. A joint Federal-state lease sale in the Beaufort Sea is scheduled to precede the above sales. Much of the activity in the next few years will center around the call for nominations for the Beaufort Sea sale, and the call for nominations in the Gulf of Alaska. The lease sale of the Lower Cook Inlet was held in late 1977, and exploration activities are underway. Regarding state leasing activities, long range planning and evaluation of the Beaufort Sea oil and gas lease sale is now in progress, with sales scheduled for 1980. Exploration activities continue in the North Gulf of Alaska in the midst of pessimism about its once highly regarded petroleum potential.

State oil production in 1977 was 88 percent more than the previous year, while gas production showed a 27 percent increase. The start-up of the trans-Alaska pipeline transporting oil from Prudhoe Bay accounted for the major increase in oil production. In the summer of 1977, tankers began loading this crude oil at its termination point in Valdez, Prince William Sound, and six months later, the 100th tanker had been loaded.

Oil and gas exploration, production, and transportation affect the environment in a variety of ways. Construction in remote locations disrupts terrestrial animal habitat and behavior. Oil spills from drilling rigs, pipelines or tankers can destroy marine life and recreation opportunities.

Fisheries are the other major source of basic income and the major source of subsistence in Alaska. The thirty year decline of salmon harvests since the peak is primarily due to overharvesting, and illustrates a classic economic point of diminishing return. Commercial logging also has been an important contribution to the decline of fish production in thousands of salmon streams of Southeast Alaska. Careless logging practices have varied stream flows, silted and compacted spawning beds and destroyed the food organisms for young salmon.

Preliminary 1975 figures put the statewide harvest of all species at about 460 million pounds, valued at \$292 million. Five species of salmon are the major fish harvested (25 million fish in 1975) but the total harvest includes 146 million pounds of crab, 99 million pounds of shrimp and 25 million pounds of halibut. The U.S. has virtually no domestic groundfishery in Alaska. However, foreign trawl fleets, particularly those from Japan and the U.S.S.R., harvested an estimated 4.3 billion pounds of pollock,

herring, perch and other bottom and pelagic fish in the Bering Sea and Gulf of Alaska in 1975. Intense state efforts to develop a domestic bottomfish industry are underway in 1978.

Most of Alaska's commercial timber is in southeast Alaska. Timber harvest declined drastically in 1975 as a result of recessions in the U.S. and Japan, the major buyers. Approximately 469 million board feet of timber was harvested in 1975, down one-quarter from 1974. Value was \$5.1 million. Most of the forest products are exported to foreign markets, notably Japan. In the early 1970's Japan, in return, contributed over half of Alaska's imports, primarily steel for pipeline construction. Because Japan is as near as many U.S. markets it will continue to be an important trade partner, exchanging natural resources for manufactured products.

Alaska has less acreage devoted to agriculture than any other state. Approximately 70,000 acres are in farm land, a fourth of which is in crops for harvest (Agriculture Potential Committee, 1974). Most of the production is in the Matanuska Valley. Milk, hay, and potatoes, in that order, are the dominant farm products. The 1975 State agricultural production was the greatest on record, with a total value of nearly \$9.3 million. But agriculture will probably never be a major economic factor in the coastal zone due to lack of suitable lands. Cattle, sheep, and reindeer ranching conflict seriously with wildlife in southcentral and western Alaska. Grazing animals destroy ground-nesting bird habitat and many Aleutian species are particularly vulnerable to such disturbances. Cattle and sheep compete with deer, elk, and moose for critical habitat and food supplies. Brown bear, wolf, and wolverine compete with ranchers for both habitat and domestic stock. Virtually the entire northern and western coastal zone of Alaska is excellent caribou and reindeer range, though only the Seward Peninsula and Nunivak Island are presently utilized by Eskimo reindeer herders. Populations of reindeer and caribou are incompatible for various reasons.

After 80 years, tourism in Alaska is only beginning to develop toward economic maturity. Nearly 270,000 visitors travelled to Alaska in 1976. Almost half arrived by air, usually landing in a major coastal community such as Anchorage. About one-third came on a tour ship or state ferry. Tourism and other recreation is and will be an important economic activity in coastal Alaska, but exactly to what extent is unknown. The 1976 contribution of tourism in Alaska should approximate \$90 million. But tourism is a consumptive rather than productive industry and cannot be compared economically to those industries based on resources, such as mining or fishing. Productive industries generate a much larger proportion of their income into the state-wide economy due to a lower requirement for imports. However, many production industries have highly objectionable aspects. Tourism, even though it has objectionable aspects of its own (particularly in "bush" communities), may well prove to be the more desirable alternative. Tourism in Alaska is mostly an active sightseeing rather than a sedentary vacation activity. Natural scenic and wildlife values are the major coastal attractions. Thus conflicts arise between tourism and development, e.g., logging (especially clearcutting) or offshore oil and gas production. Historical and cultural attractions are also important in coastal communities.

Tourism is seasonal, and much tourist development and economic impact is concentrated in the Anchorage and Kenai Peninsula area and a few specific towns in Southeast Alaska. Sport fishing and hunting are major attractions; 80 percent of all sport fishing effort occurs in coastal regions along with most of the non-resident big game hunting.

The estimated 1975 total average employment for non-agricultural civilian resident workers was 161,000--up 57 percent from 1970. Unemployment is traditionally high. It dropped below ten percent as a result of pipeline employment but is presently about 15 percent. Alaska's 1974 per capita income was the highest in the country--\$7,062 compared with the national average of \$4,448. In contrast with overall state averages, unemployment in the villages is usually much higher than 15 percent and average wages in the Native villages are much lower than the state average.

In the future, increased demands for energy and strategic minerals will be directed towards Alaska. Almost certain discoveries of OCS and National Petroleum Reserve, Alaska (Pet 4) oil and gas reservoirs will continue the flow of petroleum revenues, for perhaps thirty years, but probably not much longer. Prudhoe Bay and the pipeline have "opened up" the North Slope, and the adjacent seas and lands along the pipeline corridor to new Federal, state and Native corporation leasing and exploratory activity. It is generally easier and cheaper to extend development and to share or expand transportation facilities from existing areas than to open new and isolated areas. This "opening up" of Alaska's lands and continental shelves will facilitate large-scale development of coastal mineral resources such as coal, copper, tin, lead and other commodities that were too remote to develop economically.

Because the mountains come right down to the sea, the Pacific coast has a great potential for hydroelectric power developments. Many problems have not been solved. Reducing sediment loads delivered to the coast may change the net coastal erosion--with subsequent loss of beaches and shorelines. The frequent inundation of floodplains is critically important to waterfowl and shorebirds. Damming streams anywhere in Alaska will prevent salmon migrations unless adequate fish ladders are built. Salmon and other fish that feed in the sea and return annually to spawn and die act as a biological "nutrient pump" to the nutrient-poor streams of Alaska. Drastically reducing the runs would significantly alter both terrestrial and aquatic ecosystems. Bald eagle, raven, brown bear and humans all depend, to some extent, on the spawning fish.

Additional data on the current and projected status of the industries of Alaska (minerals, petroleum, gas, timber, fishing, international trade and tourism) can be found in the Alaska Economy, Year-End Performance Report 1977, prepared by the Alaska Department of Commerce and Economic Development.

Section (h) Population

Alaska's population has been increasing at rates which vary from two percent to six percent per year, and is expected to increase at varying rates in the future. The reason is the large construction projects that occur in

the state. At certain points in these projects the population increases sharply with the demand for labor. After the labor force is at work, the rate of increase slows or even flattens back to the natural increase rate of around two percent. Interestingly, the population will not decline as much as was expected with completion of the Trans-Alaska Oil Pipeline. Many who came to work on the line itself did leave the state, but many who came to supply support services found that there was a general demand for their services and have stayed.

The next major physical project will be the Alcan gas pipeline, and this will equal the oil pipeline in magnitude. Additionally, the Alaska bottom fishery is beginning to develop and some new employment is anticipated as a result of this. The bottom fishery and the gas pipeline employment demands are expected to occur in 1979 and 1980 and this is the reason for the increases in general population shown below for those years:

(The following figures come from the third quarter forecasts for the subject years. Source is the Alaska Economic Information on and Reporting System, April 1978, Quarterly Report, Alaska Department of Commerce and Economic Development, Division of Economic Enterprise, and is based on Bureau of Census data.)

1976:3--408,300
1977:3--407,400
1978:3--410,400
1979:3--422,500
1980:3--436,600

The Alaskan population is young and mobile. The median age is 22.9 years. Males outnumber females slightly in all age groups except the early twenties where the ratio is about two to one. Two-thirds of the population were born in other states.

Roughly 15 percent of the total state population is Eskimo, Indian or Aleut. Establishing a tradition still imitated by the Caucasian majority, the Eskimos, Aleuts and Southeast Alaskan Tlingit and Haida Indians settled on the shores, and derived most of their livelihood from the sea and shorelands.

The estimated 1975 population of Alaska was 384,000. This was a 27 percent increase over 1970. The population is currently over 400,000 and may well double in two decades. Approximately three-fourths of the population live within ten miles of the coast. Considering the vast interior bulk of the state this is an unparalleled concentration. However, most of the coastal population, about 176,000 in mid-1975, is further compressed into the port city of Anchorage, leaving most of the coastline unpopulated.

The majority of the coastal population lives in thirteen communities (besides Anchorage) with mid-1975 populations greater than 2,000. Excepting the Beaufort and Bering Sea communities (Barrow, Kotzebue, Nome and Bethel)

the populations are predominantly Caucasian and have most of the amenities familiar to any citizen of an American rural community, except convenient road access to other parts of the state.

Roughly 15 percent of Alaska's population inhabits wet and moist tundra near the northern and western coasts. Most of the state's Eskimo and Aleut population live in this ecosystem. Communities are located on sand spits, old beaches or elevated river banks. A great part of human livelihood is derived from the sea and rivers. The four previously mentioned predominantly Native towns are regional service, transportation, government and trade centers for the rest of the coast. Villages in the surrounding regions do not resemble the typical American small town. There are few roads and no road networks. Local transportation is by small boat in the summer and snowmachine in the winter. Light planes equipped with floats, skis or balloon tires are year-round transportation. Residents participate in a wage-boosted subsistence economy and must supplement their seasonal cash income by fishing, hunting and gathering. Sport hunting and commercial fishing compete with subsistence hunting and fishing throughout the state. Eskimo, Aleut and Indian cultures and traditions are still strong in the villages. For many residents in northern and western Alaska, English is a second language and is spoken with difficulty or not at all.

An eccentricity of Alaskan land management is the Unorganized Borough. Almost the entire western and southern Alaska coastal zone, and most of Southeast Alaska's coastal zone, has no incorporated city or borough (county) government. Residents in the Unorganized Borough have fewer opportunities to participate in the public decision-making that affects them; they do not participate equally in paying for services such as education or police protection through local taxes.

Roughly 15 to 20 percent of the state's population lives within or adjacent to the western hemlock-Sitka spruce coastal forest. All communities are located on the coast. The absence of a continuous coastal plain in Southeast Alaska and Prince William Sound has precluded intraregional highway and railroad networks. The Southeast panhandle communities rely upon maritime and air transportation, sharing state highway funds with their "marine highway" network. The acute shortage of flat land necessitates the filling of tidelands and wetlands to accommodate expanding industries, housing and local roads. Only where coastal plains coincide with favorable natural harbors are topographic conditions amenable to moderate urban and industrial development. The major industry is commercial salmon fishing. Tourism, state spending and timber production are important local boosts to the economy. The well-drained glacial till soils, rolling topography and comparatively mild climate make the western Kenai Peninsula and Anchorage region most conducive to development. Over half of the state's coastal population lives in or near Anchorage. A road network connects most of the communities with each other and the interior. The Upper Cook Inlet region has become the economic and agricultural heartland of Alaska. Ground layer air inversions are common in coastal lowlands, such as the Anchorage bowl. Air pollution, mostly from internal combustion engines, often accumulates to undesirable levels downtown. Because of the proximity to Anchorage, southcentral big game and sport fish populations are subjected to

intensive pressures. Most recreational development has occurred in this region of the coastal zone. Coastal parks are favored and heavily used. The Cook Inlet region has more elements in common with coastal zones in the rest of the United States than any other area in Alaska.

Recreation in the Alaskan coastal zone is both water and land-oriented. Most outdoor recreation is focused on outstanding biological or geographical features. These include concentrations of bird, mammal or fish populations, unique vegetation, sand beaches, hot springs, flat or mountainous terrain, etc. There is occasionally an overlap between recreation and tourism or recreation and subsistence uses. The most popular recreational activities along the Alaskan coast are common to the rest of the United States. These include trail-related activities (e.g., hiking, bicycling, snowmobiling), sight-seeing, driving for pleasure, picnicking, fishing, and boating. Natural and scenic features which have educational, observational or photographic value are the most popular attractions of trail-related recreational activities.

Alaska's recent phenomenal rate of growth has overloaded public services and facilities and induced critical housing shortages and inflation. Immigration is a major concern in the still underdeveloped state. Due to the influx of new people and the recent inflation and "uncontrollable" growth generated by the trans-Alaska oil pipeline and OCS oil and gas exploitation activities, the Alaskan public is not as naive as it was several years ago.

A survey study of Alaskan opinions conducted by the Rowan Group (1976) showed that over half the public was in favor of an oil and gas industry in Alaska and development in general. This urge to develop is a persevering manifestation of the frontier ethic. But one-third of the population feel that, in a socioeconomic sense, more has been lost than gained. Almost half said that the Alaskan "quality of life" has deteriorated. The public may be two to one in favor of the petrochemical industry, but two people to one can immediately name a place where in their opinion oil and gas should not be developed--development is fine but do it somewhere else. Three-fourths of the population said new industry was desirable only if it could pay its own way. Development has brought new jobs and higher incomes, but, overall, a greatly increased sense of confusion.

Section (i) Land Ownership

The Federal government, now as in the past, is the largest landowner in Alaska. It will remain pre-eminent in the future. At statehood almost 100 percent of Alaskan lands were owned by the Federal government. The Alaska Statehood Act of 1958 gave the state 25 years to choose over 103 million acres of state land. The State administration chose at that time to wait until land use patterns and natural resource values were better delineated.

In 1971 Congress passed the Alaska Native Claims Settlement Act, awarding over 44 million acres and about \$1 billion to the native Alaskan Eskimos, Indians and Aleuts in compensation for their aboriginal claims to most of the land in Alaska. This belated action triggered a massive reallocation of land in Alaska and accelerated the rate of state selection. In addition to Native

village and regional corporation selections, the state is rapidly selecting its 103 million acres and the federal government is prepared to designate up to 116 million acres of public domain as national parks, wildlife refuges, forests and wild and scenic rivers, in response to Section 17(d)(2) of the Settlement Act.

Today seventy percent of Alaska lands are in Federal reserves; the state has selected about eighteen percent of their 103 million acres and the Natives are completing their selections of over eleven percent of Alaska lands. When the state completes its selections, which must occur by 1984, it will own about 28 percent of the land. Native and other private holdings will amount to about twelve percent, and the Federal government will still own the majority of the land--about 57 percent.

Until the selections are patented the actual extent of coastline in each category will be unknown. However, most of the coast is currently under Federal ownership, particularly the Tongass National Forest of Southeast Alaska and the Chugach National Forest of Southcentral Alaska, and will remain so. Almost all of the tidal and submerged lands offshore to the three mile limit, approximately 45 million acres, are under State ownership.

The future pattern of land ownership could resemble a jigsaw puzzle. Because natural resources and traditional land use activities will not confine themselves to arbitrary legal boundaries, land use planning and management on Federal lands is a major concern in Alaska.

Section (j) General

The trend in resource management today is the growing realization that conservation policy and practice must be based on sound ecological theory and must be directed towards entire ecosystems. This realization has developed slowly, as failures and shortcomings in the management of individual resources or species were observed. Land owners can be independent but land uses may not. In the coastal area, one use always impinges upon another. This indicates the need for some kind of cooperative land and water planning and management. State and local policies can have an important effect on the quality of life--on where, when and what types of development occurs in the coastal area.



**Probable Impacts of
the Proposed Action**

Part IV

PART IV: PROBABLE IMPACTS OF THE PROPOSED ACTION ON THE ENVIRONMENT

The Federal action is the proposed approval of the ACMP as having met the requirements of the CZMA and, after approval, the awarding of Federal grants-in-aid to assist Alaska in implementing and administering their program. Also, approval places an obligation on Federal agencies to act in a manner consistent, to the maximum extent practicable, with the approved program, thereby significantly impacting the Federal decision-making process as it relates to land and water use activities and funding in the coastal zone.

This Part addresses the impact associated with the above action, as well as the secondary impacts of implementing the state program.

Section (a) General Impacts

The intent of the CZMA is to promote the wise use of the Nation's coasts. The CZMA encourages states to achieve this goal through better coordination of government actions, explicit recognition of the long-term consequences of development decisions, and the institution of a more rational decision-making process. This process, which could affect much of the future activity in the coastal zone, will have a substantial environmental impact.

Both beneficial and adverse environmental and socioeconomic effects will result from Federal approval and state implementation of the ACMP. The fundamental criterion for assessing these impacts should be the CZMA's declaration of policy: "to achieve wise use of land and water resources of the coastal zone giving full consideration to ecological, cultural, historic and aesthetic values as well as the need for economic development."

Protection of the coastal zone may be viewed as beneficial to the environment and to the public welfare for many reasons, but it also may have adverse economic effects on development interests, including property owners and potential property owners whose plans are limited or modified by the program.

The ACMP is a comprehensive program which will be implemented over a period of many years. It is impossible to assess discrete impacts that will occur over this time, but a few points can be made. There are strong safeguards built into the coastal management program system because the CZMA requires that the intent of the National Environmental Policy Act (NEPA) be met. Resource inventories, designation of boundaries, permissible uses, areas of particular concern, areas to be preserved or restored and consideration of alternatives are all a part of the overall process associated with managing coastal resources in Alaska. The overall purpose of this EIS is to determine if implementation of the ACMP process can reasonably meet the objectives which the state has set and meet the broader national CZMA and NEPA goals.

Impacts associated with Federal approval of the ACMP fall into two categories: (1) impacts due to a direct increase of funds and funding options to the State and local governments, and (2) impacts from the implementation of the CZMA.

Although the ACMA could be implemented as a state coastal management program separate from participation under the CZMA, Federal approval offers several advantages to the state and allows a more comprehensive and effective program.

Program Funding

Federal approval will permit the OCZM to award program administrative grants (Section 306) to Alaska. This will allow increased use of resource management specialists at both the state and local government levels. In turn, this will improve resource management decision-making in the coastal zone. Section 306 grants will also be used to help administer, enforce and improve the state and local implementation programs. These funds will also allow state and local agencies to obtain information on coastal hazards, sites for energy, transportation industry and commerce facilities and for other needs which will increase the quality of the information base for coastal zone management decisions. An increase in coastal management staff will speed the permit review and appeals system and provide better enforcement of the program regulations, and thus help meet the CZMA objective of more coordinated governmental action.

Under Section 306 of the CZMA, Alaska would be eligible for funds on the order of \$4 million annually to carry out the management program. Over half of the Federal funds available to the state will be used for the development and implementation of district coastal programs. This will improve local ability to manage coastal resources, and allow for sharing of coastal regulatory authority by state and local governments. The Office of Coastal Management has estimated that about \$3.5 million will be required over three years to complete district coastal program preparation. As district coastal programs are approved, an increasing portion of available Federal assistance would go to local governments to assist them in carrying out the regulatory function of the state's coastal management program.

Section 308 Coastal Energy Impact Funds and Formula Grants could aid substantially in ameliorating the impacts of offshore oil and gas production. While Section 306 program approval is not a prerequisite for Section 308 funding eligibility, active program participation is. Additional funding for interstate coordination, beach and island preservation and access, research, and training also may be available in the future.

Federal Consistency

Federal approval and state implementation of Alaska's Coastal Management Program will have implications for Federal agency actions. Approval of the state's program will lead to operation of the Federal consistency provisions of the CZMA (Section 307(c) and (d)). These provisions, and the manner in which Alaska intends to implement them, are described in Chapter 6 of Part II.

The purpose of the Federal consistency provisions is to allow closer cooperation and coordination among Federal, state, and local government agencies involved in coastal related activities and management. This desirable impact is one of the principal objectives of the CZMA.

The Alaska Coastal Management Program has evolved with considerable assistance from the numerous Federal agencies with responsibility for activities in the coastal zone. No Federal agency activities are specifically excluded from the coastal zone, although these activities may have to meet environmental standards to obtain coastal sites or be located outside the coastal zone if adverse environmental effects cannot be sufficiently mitigated.

When Federal agencies undertake activities, including development projects, directly affecting the state's coastal zone, they will have to notify the state of the proposed action. Steps will then be taken to insure that the proposed action not only meets Federal requirements but is also consistent with the state's management program. In the event of a serious disagreement between the state and Federal agency either party may seek mediation by the Secretary of Commerce. The availability of early Federal-state consultation and the mediation services of the Secretary of Commerce will increase the potential for conflict resolution. These procedures will provide all parties with an opportunity to balance environmental concerns with other national, state and local interests.

In cases where the state judges that a proposed Federal license, permit or assistance activities is inconsistent with the state's coastal program, the Federal agency will be required to deny approval for the activities. State objections must be based upon the substantive requirements of the management program. State objections may require Federally regulated and assisted projects to consider and locate in alternative sites thereby causing adverse impacts in non-coastal marine or distant coastal areas. State objections may otherwise suggest ways projects could be modified to achieve conformance with the management program.

In certain instances, upon appeal, a state objection to a proposed Federally licensed or assisted activity may be set aside by the Secretary of Commerce if the proposed activity is consistent with the objective of the CZMA or is in the interest of national security. In the former case, the Secretary must find that (1) the activity will not cause an adverse impact on the coastal zone sufficient to outweigh its contribution to the national interest; (2) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the management program; and (3) that the proposed activity will not violate requirements of the Federal Water Pollution Control Act or the Clean Air Act. Even if state objectives are set aside by the Secretary, the override will be dependent upon consideration of environmental protection needs. This procedure conforms with NEPA's objective for incorporating environmental values in Federal agency decision-making.

Where the state determines that a proposed federally regulated or assisted project is consistent with the requirements of the management program, the Federal agency may approve the project which will then be in conformance with the state's management program requirements, including those related to environmental protection. Notwithstanding state approval for the project, the Federal agency is not required to approve the license, permit or assistance application. The proposed project may still require Federal government

disapproval based upon NEPA, Endangered Species Act, Fish and Wildlife Coordination Act, or other overriding national interest grounds where Federal criteria are more stringent than the state's management program requirements. Between Federal and state environmental requirements for the coastal zone, the more stringent apply, thereby fulfilling NEPA's objectives to administer Federal programs in a manner which maintains the quality of the environment.

National Interest

Federal approval of the state's program will also certify that the state has an acceptable procedure to insure the adequate consideration of the national interest involved in the siting of facilities so as to meet requirements which are other than local in nature. These facilities might involve energy production or transmission; recreation; interstate transportation; production of food and fiber; preservation of life and property; national defense; historic, culture, aesthetic, and conservation values; and mineral resources to the extent they are dependent on or relate to the coastal zone.

This policy requirement of the CZMA is intended to assure that national concerns related to facility siting are expressed and dealt with in the development and implementation of a state's coastal management program. The requirement should not be construed as compelling states to propose a program which accommodates certain types of facilities. It works to assure that such national concerns are not arbitrarily excluded or unreasonably restricted in the management program.

This provision might have two impacts. First, it insures that a state has a process and program that does not prohibit or exclude any use or activity dependent on the coastal zone. In the absence of a comprehensive program such considerations might simply be ignored by oversight or default. This requirement will insure they are specifically considered. On the other hand, the existence of a consultative procedure should lead to more deliberate and less fragmented decision-making concerning the siting of facilities in the coastal zone.

Section (b) Social and Economic Impacts of the ACMP

With a program that must be implemented in conjunction with many other Federal, state and local government programs, and which will be implemented in social and economic systems that are constantly changing in response to other demands, potential socio-economic impacts can only be discussed in general terms and trends.

Programs such as the ACMP are intended to have an impact on existing regulatory mechanisms. Some are designed also as environmental protection measures and have an obvious effect on environmental resources. It is the socio-economic impacts of such programs that are usually insufficiently recognized. What follows is an identification of those socio-economic impacts which can be discerned. Given the unique land ownership and population density

patterns in Alaska, it must be recognized that the impacts will vary greatly both in scale and duration. Much of the coastal zone will not be subject to development pressures because of existing environmental management units such as parks and refuges, etc, which prohibit further development or exploitation of resources. Therefore, many impacts will be localized to existing population centers or new lands which will soon be opened up. Likewise, the Alaska coastal zone is extensive and some of the ACMP Guidelines and Standards which will cause socio-economic impacts will apply only to the shoreline area, so some facilities which may not locate along the shoreline because of environmental restrictions may still locate inland but be within the coastal zone.

Costs and Benefits

According to a study of the potential impacts of coastal zone management programs conducted by the Real Estate Research Corporation for the Office of Coastal Zone Management, benefits of coastal management will accrue to people throughout the state and Nation. These benefits will be of various kinds and will occur in different ways and degrees. The following major beneficiaries can be identified: owners of property directly affected by implementation decisions, neighboring property owners, owners of businesses whose productivity or market attractiveness would be enhanced by the ACMP Guidelines and Standards and district programs, government at all levels, and the general public.

This study also concludes that benefits of coastal zone management will be based on changes in the nature, scale, distribution, and pace of production (including manufacturing, agriculture, mining, fishing), utility services and costs, business sales, employment opportunities, population and the labor force, housing demand and supply, construction, financing and investment, property values, government costs and revenues, educational and recreational opportunities, and aesthetics.

Coastal management consists of the use of foresight in cooperatively determining how to both preserve valuable natural resources and accommodate the needs of an expanding population and economy. Achieving this balance involves trade-offs which include some short-term positive and negative effects. Long-term benefits from enhanced productivity of renewable resources --fisheries, forests--would also be realized.

Potential economic benefits of the coastal zone policies have the following attributes:

- They can be "one time only" or "recurring,"
- They can cause net increases in economic activity or merely shift benefits among individuals or groups,
- Costs may be incurred in their attainment--such as, expenditures for shoreline restoration or pollution control, and
- Secondary "spin-off" effects may be felt--both positive and negative, depending on the nature of the policies and the economic activities affected.

Potential economic benefits can include increased productivity, higher sales, more jobs, greater demand for facilities and services, increased property values, lower taxes, reduced or stabilized consumer prices, and heightened satisfaction with one's physical environment. Prudent coastal zone planning, therefore, results in a balance between conservation of irreplaceable natural resources and the needs--job creation, housing, recreation, and shipping--of an expanding economy. While some coastal zone actions result in net gains or net losses for the local economy, in most instances the short-term effects of the program cause a redistribution of assets.

Some lost expectations will be encountered, but gains elsewhere should offset these losses. In those cases where regulations would actually result in a legally-determined taking, the regulations would be declared void or compensation paid. Reduced property taxes could help offset severe losses. Planning stabilizes erratic "swings" in expectations because it results in less uncertainty in future prospects of land investment. While there may be short-term lags as the economy adjusts to changes induced by the ACMP, long-term benefits are likely to balance or exceed costs. For example, some industrial plants may not be built near the shoreline, in part because environmental protection regulations may make them too costly. They would yield an inadequate rate of return on equity when compared to alternative opportunities. However, lower financing costs or improved marketing outlook could result in a decision to ultimately go ahead with a deferred project despite the costs of complying with coastal zone regulation. These same regulations will result in heightened opportunities in coastal dependent economic activities--tourism, recreation, fisheries, and commerce.

Impacts Upon Land Values

Land values in Alaska continue to rise as increased pressure for development is constrained by the supply of readily usable land. These pressures are magnified in parts of Alaska's coastal areas where land is relatively flat and suited for development because of the water access and population distribution.

The Real Estate Research Corporation cited the following as some of the key determinants of property values in their report which are applicable to Alaska. The key determinants of land values include:

- Natural site characteristics and environment
- Man-made site characteristics and environment
- Community image
- Demand for particular land uses
- Access

- Utilities
- Public facilities and services
- Taxes
- Land use and development regulations

Table 3, also from the Real Estate Research Corporation's Study, summarizes impacts of government action on land values.

The guidelines and standards of the ACMP will be implemented through existing government mechanisms, and may result in the following land value impacts.

1. Land values in the coastal zone will not necessarily increase faster than other land values as a result of CZM objectives and policies. Land values may increase, however, in areas where the ACMP imposes on proposed developments additional restrictions and/or conditions. Permits for developments in areas containing coastal areas uniquely suited for recreation, historic resources, subsistence habitat, or unique coastal ecosystems, for example, may be denied unless certain conditions are met. Placement of conditions on development proposals may tend to increase land values in such affected areas.

2. By restricting land use options in some coastal areas, land values will be redistributed to other areas not subject to use restrictions. In coastal areas, the value of land near or within existing developments will rise and coastal dependent developments may be compelled to move inland to avoid high costs.

3. Land values probably will decrease in some coastal areas where there is no development. The ACMP will foreclose development in some areas by concentrating development in areas which are already developed. The undeveloped land will then be left in the present, less "valuable" (in the economic sense), state.

When local governments develop district programs to reflect the guidelines, standards and objectives of the ACMP, the zoning ordinances and other implementing actions must be consistent with the Program. This may require down-zoning in some communities and in some instances may cause a reduction in land values, affecting the assessed land values and resulting in a decline in tax base. The extent of the impact in each district will have to be weighed against increases in allowable development in other areas.

Impacts Upon Cost of Development

The ACMP will affect the cost of development in two ways. First, land acquisition cost may increase as discussed above. The competition for available land will intensify, and the increased prices paid to acquire that land will be reflected in higher development costs.

TABLE 3: IMPACT OF GOVERNMENT ACTION ON PROPERTY VALUES

<u>Type of Action</u>	<u>Impact on Values of Subject Property</u>	<u>Impact on Values of Neighboring or Competitive Properties</u>	<u>Net Effect on Property Values</u>	<u>Relative Importance on Specific Actions in Determining Impacts</u>
Restrictions on land use	Value declines	Value rises	Redistri-butional	Very Important
Developer required to make improvements or pay fees	Value declines	Value rises	Slightly negative	Unimportant compared to other public actions
Resource amenities protected or restored by government action	Value rises	Values rises	Slightly positive to very positive	Very Important
Shore access by the public maximized and protected	Value declines	Value rises	Slightly negative	Less Important than use restrictions or amenity protection
Concentrating development in existing communities	If still undeveloped, value declines; if already improved, value rises	Value rises	Positive	Very Important
Providing infrastructure, public facilities, and services	Value rises	Value unchanged	Positive	Important
Tax reduction or deferral for regulated, restricted, or encouraged uses of coastal properties	Value rises	Values unchanged	Slightly positive	Less Important than use restrictions or amenity protection

Source: Real Estate Research Corporation.

Second, coastal development locating in sensitive areas but still permissible will probably be more costly as a result of conditions based on siting and design considerations to mitigate adverse impacts. For example, some may find that to meet restrictions placed upon residential developments to conform with the coastal hazards standard may make future development of their land prohibitively expensive. Additionally, costs for public services may increase due to standards such as the transportation and utilities standard designed to make such facilities consistent with other local and area goals and patterns. The siting of such facilities may or may not be the most economically efficient.

One affect which could arise from a new public regulatory program is a delay in approval of development. However, ACMP is mitigating this affect by utilizing existing land and water use controls rather than adding new permits. In addition high priority has been placed on developing permit coordination mechanisms. Pursuant to the Environmental Permit Coordination Act of 1977, funds have been allocated to the development and operation of a one-stop permit system for developers, and to improve internal agency procedures at the state level. The impacts that most developers cannot accept are the delays associated with permit approval and duplication of authorities among state agencies. It has been shown that delays may not only frustrate development but hurt industries whose costs have been extraordinary in getting a permit. If the delays can be minimized, most industries and developers can accept the adverse economic impacts normally associated with environmental regulation, since these are known and can be made a part of the developemnt process.

Impacts Upon Employment

Implementation of the ACMP will impact employment in some industries because of the affects it may have on their future activities. The protection of sites for coastal dependent facilities and fish and seafood processing facilities will benefit these industries and the work force. Industries which may be adversely affected are the timber and mineral industries.

Impacts Upon Development Patterns

The ACMP may have a substantial effect on development patterns. It will affect the manner in which governmental bodies review development applications and the manner in which proposals for private development are formulated and presented. Once the program is implemented, many of its effects will be felt very early in the development process. The ACMP will affect the patterns of development in four ways: (1) it will alter the nature of private planning and design; (2) it will increase the sophistication of the standards the agencies apply in reviewing development; (3) it will establish a set of priorities for use of the coastal area; and (4) land use designations of district programs will place restrictions or allow development within certain geographic areas only.

Overall, the economic benefits of the ACMP will, at a minimum, effect non-compensated losses in land values or business opportunity. Better coordinated governmental action and sound information on which to base management decisions both for private and public interests will help outweigh the potential future losses due to program implementations. The program will have positive impacts for cultural groups such as subsistence cultures who want to continue their lifestyles under the increasing pressures due to economic growth.

Section (c) Impacts of the Program's Policies and Standards

This section addresses the impacts of the policies, standards and other related provisions of the state's coastal management program. These will be implemented through the planning and management actions of Federal, state and local governments.

The following objectives and policies of the Alaska Coastal Management Act provide the basis for discerning the overall impacts of the more specific standards of the program:

- 1) the use, management, restoration and enhancement of the overall quality of the coastal environment;
- 2) the development of industrial or commercial enterprises which are consistent with the social, cultural, historic, economic and environmental interests of the people of the state;
- 3) the orderly, balanced, utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;
- 4) the management of coastal land and water uses in such a manner that, generally, those uses which are economically or physically dependent on a coastal location are given higher priority when compared to uses which do not economically or physically require a coastal location,
- 5) the protection and management of significant historic, cultural, natural and aesthetic values and natural systems or processes within the coastal area;
- 6) the prevention of damage to or degradation of land and water reserved for their natural values, as a result of inconsistent land or water usages adjacent to that land;
- 7) the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs; and
- 8) the full and fair evaluation of all demands on the land and water in the coastal area.

Standards have been adopted for coastal land and water areas and uses in furtherance of these legislative objectives and policies. These will be implemented through a management system which assures that all decisions relating to coastal land and water areas and uses will be made in accordance with the standards. This system is described in Chapter 6 of Part II.

These standards apply coastwide, and tend to be adaptable to allow flexibility in interpretation and application. The variability and differences in local conditions made difficult if not impossible very specific standards that would be appropriate everywhere on the coast. The standards do prescribe appropriate forms of management and priorities, but in effect allow some discretion, especially to local governments, in applying them.

During public review of the ACMP, some expressed concern about the generality of the standards. It was pointed out that an effect of this situation is uncertainty about what the standards may require in specific circumstances. Most reviewers believe this situation is unavoidable for the reasons discussed above. A possible impact of this situation is extended conflict if the standards do not provide the guidance necessary to resolve the uncertainty. Some local governments believe this situation may prolong the negotiations involved in approval of district programs, while others do not expect such problems. Local governments contend that it will be most difficult to apply statewide standards to smaller geographic areas.

Whether the standards are thought to be too general or specific, conflicts are likely. These will be resolved through the conflict resolution mechanisms provided in the ACMP. The entire process of implementing the standards is structured to avoid confrontation and foster collaboration of all interests involved, especially state and local governments.

The following material forecasts the anticipated effects of the implementation of each standard, and other related program provisions. It should be remembered that more than one of the standards may apply to any given use and area; so too with the impacts of implementing the standards. Since the substantive policies of the Alaska Coastal Management Act are reflected in the standards, no additional discussion of these policies is provided. The full text of each standard is not repeated here, but can be found in Appendix 3.

Coastal Development (6 AAC 80.040)

This standard addresses the problems of limited waterfront space available for development, and the effects of dredging and filling. The standard makes dependence or relatedness to coastal water, or the need for a waterfront site, the criteria for determining the priority of waterfront space allocation. Uses which are neither water-dependent nor water-related are accorded lowest priority, but may locate in coastal waterfront areas when there are no other inland alternatives.

The standard also addresses dredging, filling and placing structures in, on, or adjacent to coastal water. It prescribes criteria to evaluate the probable impact of proposals on the public interest.

Positive Impacts

1. Impacts of some coastal area development will be shifted upland, avoiding shorelands. Since upland areas are better able to withstand the impacts of development than sensitive shoreland areas, the overall environmental impact of development in the coastal area will be reduced.

2. Economic opportunities will be increased for water-dependent and water-related developments, since such uses are accorded priority.

3. Uncertainty as to whether a proposed development will or will not be allowed will be reduced.

4. Competition for limited waterfront space among competing and conflicting uses will be reduced.

5. Environmental impacts of necessary dredging and filling will be reduced.

Negative Impacts

1. Economic opportunities for uses which would benefit from a waterfront location, but which are not dependent on the location, may be precluded.

2. Costs of coastal development and activities may increase as a result of approval conditions relating to design and location which may be required to achieve conformance with the coastal development standards.

Geophysical Hazard Areas (6 AAC 80.050)

Alaska is subject to a large number of geologic forces and processes which may severely affect coastal development. The term "geophysical hazard area" means those areas which present a threat to life or property from geophysical processes. The standard states that hazard areas should be identified for potential areas of development where hazards are possible, and for areas where hazards are already known. The standard then requires proper siting, design and construction measures for development in identified hazard areas, to minimize damage to life and property.

This standard forms the core of the ACMP's shoreline erosion planning process. The impacts of the planning process are not significantly different than the impacts described below and in other sections of this document.

Positive Impacts

1. Loss of life and property resulting from inappropriate development in hazard areas will be avoided or minimized.

2. Public and private costs associated with geological hazards, such as resources expended on rescue and relief, loans for rebuilding, lost productivity, lost agricultural or forest lands, high insurance rates, and costs of prevention projects, will be substantially reduced.

3. Adjoining properties will be protected from the consequences of unsafe development, for example, lowland properties damaged by landslides caused by inappropriate highland development.

4. Major secondary problems (oil spills, radiation leaks, exploration, etc.) will be prevented by curtailing high-risk development in hazard areas.

Negative Impacts

1. Costs of development in hazard areas will increase. Developers will have to pay more for assessment, engineering and construction measures to deal with identified hazards. This could include changing foundation plans, constructing protective works, soil stabilization, etc.

2. Owners of property in identified hazard areas may find their property unsuitable for some types of development, or in extreme situations, any types of development at all, and as a consequence, property values may be adversely affected.

3. Implementation will require expenditure of funds by local governments to identify hazard areas, but federal funds will be available to offset the cost of hazard identification. Detailed hazard definition, engineering and designing may have to be done by the developer, and will involve costs.

Recreation (6 AAC 80.060)

This standard requires districts to designate coastal areas for recreational use. Criteria are provided for designating these areas, but additional criteria may be used. 6 AAC 85.090 requires districts to approve specific proposals for uses and activities within areas designated for those uses and activities. The recreation standard also accords high priority to maintaining and increasing public access to coastal waters.

This standard forms the core of the ACMP's shoreline access planning element. The impacts of this planning process are not different than the impacts described below and in other sections of this document.

Positive Impacts

1. Recreation opportunities in coastal areas will be protected and increased.

2. Public access to coastal waters generally will be maintained and increased.

3. Uncertainty about the acceptability of specific proposals for recreational uses will be reduced.

4. Areas designated for recreation uses will be protected from other competing and conflicting uses.

Negative Impacts

1. Designation of recreation areas may lead to increased attention and use in the designated areas and in areas adjacent to designated areas. This may stress and degrade recreational resources and values.

2. Designated recreation areas may require provision of recreation facilities and services which will involve increased public costs.

Energy Facilities (6 AAC 80.070)

With present and proposed leasing, exploration and production of oil and gas areas on its continental shelf, Alaska is assuming a position of a supply and transport base for the energy industry. Its offshore waters represent the nation's most significant frontier petroleum area and cover one of the most valuable and sensitive of all continental shelves.

Along with the potential offshore impacts of energy development are potential onshore impacts of the facilities necessary to support offshore operations. This standard affects decisions about the location, design and construction of onshore energy facilities and about coal, geothermal and hydroelectric energy facilities. It deals with the onshore and nearshore aspects of energy development. The approach is to allow the location and expansion of energy facilities in the coastal area consistent, to the maximum extent possible, with the protection of coastal areas and other important uses of these areas.

The standard has three parts. One requires local and state identification of sites suitable for development of energy facilities. Another explicitly considers uses authorized by the issuance of state and Federal leases for mineral and petroleum resource extraction as uses of state concern which cannot be arbitrarily or unreasonably excluded from the coastal area.

The other part of the standard prescribes sixteen specific standards or criteria for the siting and approval of energy facilities. These specific standards seek to maximize public benefits of facility development and minimize adverse effects. The standard includes a careful provision for exceptions to these specific standards.

This standard forms the core of the ACMP's energy facility planning process. The impacts of this planning process are not significantly different than the impacts described below and in other sections of this document.

Positive and Negative Impacts

The anticipated impacts of the part of the standard which requires the identification of energy facility sites are:

1. Adverse environmental, social and economic effects of development will be lessened through concentration of development in appropriate areas.

2. Certainty about the most suitable sites for development will be substantially increased. Advance information about sites will improve entrepreneurs' planning and scheduling of development.

3. Identification of sites will encourage development of energy facilities.

4. Speculation and competition for areas identified as suitable for energy facilities will be encouraged, affecting property values and public expectations.

The anticipated overall impacts of the standards for siting and approval are:

1. Some areas will be completely eliminated from consideration as suitable for energy facilities.

2. Certainty about how development proposals are evaluated will be substantially increased.

3. The private costs of energy facility development will increase, in some cases to the point of deterring proposed development or displacing it to other areas.

4. Coastal resources of environmental and economic value will be protected, as will other important uses of these resources.

5. The effect of allowing exceptions to the standards will be to cause adverse impacts which the standards seek to avoid.

The anticipated specific impacts of the standards for siting and approval of energy facilities are:

1. Facilities will be consolidated, which offers the following advantages: a) reduced necessity of additional sites as long as identified sites can accommodate demands; b) reduced conflicts with other uses for scarce waterfront areas; c) reduced relative public costs of providing utilities and other services, and reduced relative private operating costs as a result of concentrating facilities in the fewest different locations; d) reduced adverse visual effects of additional facilities; e) reduced number of potential sources of air and water pollution. Consolidation of facilities offers the following disadvantages: a) reduced competitive

advantage due to the information exchange and intercompany cooperation required in planning for consolidated facilities; b) reduced flexibility in production and marketing strategies for facilities that must be designed and operated to accommodate needs of other companies as well; c) increased capital costs, making marginal ventures uneconomic.

2. Compatibility of facilities with existing and projected adjacent land uses will lessen conflicts among uses.

3. Concurrent use of facilities will minimize environmental impacts and maximize economic benefits of energy facilities.

4. Cooperation in the development of facilities will insure the most suitable and acceptable proposals.

5. Avoidance of constructing additional but unnecessary infrastructure will prevent adverse environmental and economic impacts.

6. Avoidance of harbors and shipping routes with natural obstructions will prevent collisions and loss of life and property.

7. Disruption of productive habitats through clearing, dredging and construction will be minimized.

8. The probability along shipping routes of oil spills affecting fishing grounds and other habitats will be minimized.

9. Areas of scenic, recreational, environmental and cultural value will be protected.

10. Air and water pollution will be minimized.

11. Adverse impacts on population centers will be lessened.

12. Overcrowding of harbors and interference with fishing operations by vessel movements will be avoided.

The anticipated impacts of considering uses authorized by state and federal energy leases as uses of state concern are as follows:

1. These uses will not be arbitrarily or unreasonably excluded from the coastal area.

2. Adverse environmental, social and economic effects will attend acceptance of these uses, but will be minimized and may be prevented through conformance of the uses with the other standards.

3. The needs of the state and nation for these energy uses will not be neglected.

4. Since exclusions must be based on among other things, reasonable alternative site availability, the costs of development may increase.

Transportation and Utilities (6 AAC 80.080)

This standard responds to two major issues: the concern that transportation facilities be planned to be consistent with other local and area goals and patterns, and a concern over whether the immediate shoreline is a proper site for transportation and utility facilities which either do not serve the shoreline area or for which there is an alternate inland location.

The standard requires transportation and utility routes and facilities to be sited, designed and constructed in accordance with district programs which express local goals and preferences. It also requires avoidance of shorelands unless there is no other alternative.

Positive Impacts

1. Adverse impacts of routing through sensitive shorelands and habitats will be avoided.

2. The process of locating these facilities on the coast will be accelerated by giving sponsors the advantage of a predictable local response to their project. Some additional time may be needed at the initial stage of project development to assure compliance with the standards, but this compliance will save time that might have been spent having to overcome unexpected local objection.

Negative Impacts

1. Inland location of some facilities could cause an overall lengthening of some transportation routes, causing additional construction costs and raising the costs, both in time and in energy, of moving from point to point.

2. Gravel and fill material are essential for any large development, and they are most plentiful and easily accessible on the coast. Location of large developments away from the coast may make the acquisition of this material more time-consuming and expensive. However, site selection away from the coast includes less unstable ground areas, and a reduced need for gravel pads and similar measures.

3. Causing state and national transportation and utilities facilities to be consistent with local goals may create situations where it may be difficult to construct facilities in a particular district. Many of the district programs are going to be in remote areas, which may choose to severely limit development in their regions. On the other hand, transportation serving greater than local needs cannot be arbitrarily or unreasonably excluded in districts.

Fish and Seafood Processing (6 AAC 80.090)

Fishing is one of the major Alaskan industries, and until the development of the North Slope oilfields, was the largest industry in the state; the fishing industry is again in a period of growth.

The protection of the habitat which supports the resource is dealt with by another standard. This standard addresses the on-shore facilities which support harvesting and processing. It requires identification of areas especially suited for onshore facilities for the fishing industry. The districts may then designate from among these areas those which they consider appropriate for development, taking into consideration the needs of the fishing industry and the effects that this development may have on local communities.

Positive Impacts

1. Certainty about areas suitable for commercial fishing operations will be increased.
2. Economic opportunities for commercial fishing and seafood processing uses will be increased.

Negative Impacts

1. Fish and seafood processing and harvesting support activities impose special burdens on the areas in which they are located. Some of these potential problems are fuel or oil spills, removal of beach area, reduced access to the water, odors, noise, traffic density, and the disposal of organic waste materials. All of these problems should be mitigated by careful planning.
2. Designated areas of fish and processing will exclude other uses. This may be a problem unless other on-shore areas are made available for other water-dependent facilities.

Timber Harvest and Processing (6 AAC 80.100)

The timber industry in Southeast Alaska alone provides for an estimated 29 percent of all primary employment, and timber-related employment is much greater than this in certain communities. Currently, most of the timber land

in Alaska is in Federal ownership, but considerable amounts of this land will become the property of Native corporations with the transfer of land.

This standard sets specific standards for all forest practices. While dealing with many impacts which result from timber harvest or processing the primary consideration in the timber harvesting standard is to minimize impacts on the coastal fishery. The links between timber practices and anadromous fish production are extremely close, and conflicts between these two important economic activities are evident.

Positive Impacts

1. The adverse environmental effects of commercial timber harvest in the coastal area will be minimized.
2. The free passage and movement of fish in coastal water and streams is protected along with fish and wildlife and their habitats.
3. Streambanks and shorelines will be protected.
4. Mass wasting, erosion, sedimentation and interference with drainage will be minimized.
5. Conflicts of timber harvesting and processing uses with recreational uses and navigation will be minimized.

Negative Impacts

1. The time and money costs of timber harvesting and processing may be increased, if more rigorous forest practices are required.

Mining and Mineral Processing (6 AAC 80.110)

Mining is a coastal issue due to geographic constraints, potential adverse impacts on habitat, adjacent land use, and community goals. Little large-scale mining is now taking place in Alaska, but the state's large coal reserve has recently become the focus of considerable attention. Large areas of the state are known to be heavily mineralized. The combination of increased demand, and the development of methods for extraction in Alaska which would allow economical operation, point to an increase in mining activity.

The standard removes sand and gravel mining from the immediate coast when a feasible and prudent alternative exists. It also requires that all coastal mining activities be compatible with other ACMP standards, adjacent uses, and statewide and national needs.

Positive Impacts

1. Coastal waters, intertidal areas, barrier islands and spits will be protected from adverse effects of mining sand and gravel, unless there are no inland alternatives.
2. Compatibility of mining and mineral processing with adjacent uses and activities will reduce potential use conflicts.
3. State and national needs for minerals obtained from the coastal area will not be neglected.
4. Adverse impacts of mining and mineral processing will be minimized and may be prevented.

Negative Impacts

1. The costs of mining and mineral processing will be increased. These costs will be attributable to use approval conditions designed to achieve conformance with ACMP standards, and searches for upland mining alternatives.

Subsistence (6 AAC 80.120)

A great number of Alaskans continue to depend on coastal lands and waters to provide part or all of their food. Subsistence hunting, fishing and gathering is a major component of Native cultures, and both Natives and non-Natives engage in subsistence for traditional and economic reasons.

The standard generally calls on state agencies and districts to recognize and protect opportunities for subsistence usage, and goes on to require districts to identify areas which support subsistence uses. If areas are designated, safeguards for subsistence usage are required before conflicting uses are allowed.

Positive Impacts

1. Subsistence areas and the fish and wildlife and their habitats in these areas will be protected.
2. Subsistence uses will be protected from other conflicting uses.
3. An Alaskan "way of life" will be protected.

Negative Impacts

1. Development which would adversely affect subsistence areas and uses will be limited and in some cases prohibited.

2. Long-standing conflicts and controversies involving subsistence will be increased in the short-term as subsistence decisions are made, but reduced in the long-term after decisions are made.

Habitats (6 AAC 80.130)

The coastal area generally is the most productive and sensitive environment in Alaska; it comprises the habitats for hundreds of different species. Rich natural and economic values are associated with these coastal habitats. The ACMP recognizes that when the state's oil and gas resources are exhausted, coastal habitats will continue to be the state's economic basis in the long term.

In the management of coastal habitats it is important to first identify which habitats are more important than others, either due to biological productivity or where the area has some special feature which makes it important to particular species. To help set priorities, the standard specifies eight types of habitat areas which are to be accorded special protection. A general standard is set out to protect all habitat, and then more specific standards are set to protect certain features of specific habitats.

Because these standards afford complete protection, an exception is provided which would allow non-conformance with the standards in the case of a significant public need for the use, and no reasonable alternatives. The use or activity must still minimize degradation of the habitat. The habitat standards do not prohibit development, but rather require certain performance standards be met, which in turn allows for the possibility of technical solutions to achieve conformance.

Positive Impacts

1. The function and value of offshore areas, estuaries, wetlands and tideflats, rocky islands and sea cliffs, barrier islands and lagoons, coasts, rivers streams and lakes and important upland habitat are completely protected.

2. Protection of habitat will contribute towards the protection of fish and wildlife resources.

Negative Impacts

1. Conformance with this standard may limit some development in coastal areas.

2. If exceptions are allowed, there will be biological, ecological, cultural, economic and aesthetic impacts, depending on the exact nature of the development.

3. The costs of development in the coastal area may increase.

Air, Land and Water Quality (6 AAC 80.140)

There are already comprehensive air, land and water quality standards in effect in Alaska, administered by the State Department of Environmental Conservation. This standard adopts these standards as part of the ACMP. The new effect that this has is that those regulations become part of the body of policy which must be considered for federal consistency requirements. But this has little effect since federal agencies must comply with state standards in any case. Due to the fact that ACMP has adopted state regulations in full force, there will be no different or additional impacts as a result of the approval of the ACMP.

Historic, Prehistoric and Archaeological Resources (6 AAC 80.150)

There is a great deal of interest in the cultural and historic resources of Alaska, in part because of the state's position as the land bridge to Asia and its place in circumpolar culture. This standard calls for the identification, but not necessarily the protection, of areas with historic, prehistoric and archaeological values. Once identified, there are other state programs available to protect them.

Positive Impacts

1. The effects of identifying historical areas would be to increase the probability of their protection through increased interest in and study of these areas.

2. Identification of these areas will increase their economic value as visitor attractions.

Negative Impacts

1. While some historical, prehistoric and archaeological areas will be protected, some may not. The effect will be a foregone opportunity of increased awareness about the area's past.

2. The value of private land with identified historic, archaeological and prehistoric resources may be decreased because of limitations on possible uses.

Areas Meriting Special Attention

The policies and standards of the program require comprehensive management of coastal areas. But there are coastal areas of extraordinary value that require special management attention.

This need is recognized in the program through a provision which requires designation, and identification of the policies which will be applied to coastal areas which merit special attention. This provision covers sensitive and valuable areas of public importance and concern which need protection from incompatible uses. Specific areas which are areas meriting special attention are defined in a generic sense. Based on this definition they will identified in the coastal area.

No specific standards are prescribed for areas meriting special attention, but the policies which will be applied to these areas must preserve, protect or restore the value for which the area was designated. A management scheme is required for these areas which identifies permissible uses, policies and management authorities.

Positive Impacts

1. All or parts of the following areas may be preserved, protected or restored: areas of unique, fragile or scarce natural, cultural, historic or scenic value, areas of substantial recreation value, areas where development of facilities needs access to coastal waters, areas of unique geologic or topographic significance susceptible to development, areas of significant hazard, areas needed to protect and replenish coastal resources including floodplains, aquifer recharge areas, beaches and offshore sand deposits, areas important for subsistence, areas with special scientific value, and potential estuarine and marine sanctuaries.

2. Adverse impacts on these areas will be avoided.

3. Conflicts about uses of these areas will be reduced.

4. The predictability of public responses to use proposals in these areas will be increased.

5. The opportunity for attention to industrial and commercial needs for water access will be increased.

Negative Impacts

1. Special restrictions on the use of these areas will increase the costs of, and may deter, development.

2. Uses of these areas will be limited to those which are not incompatible with the values of the area.

3. The value of land in areas meriting special attention may be decreased due to special use restrictions.

Uses of State Concern

Under certain circumstances there is a potential for the arbitrary or unreasonable exclusion from the coastal area of uses of regional, statewide and national significance. These uses are defined in the Alaska Coastal Management Act, and include transportation, communication, energy developments and other uses.

This and a related provision of the ACMP guard against the arbitrary or unreasonable exclusion from the coastal area of these uses. It requires that local units of government make certain findings before uses of state concern are restricted or excluded from their coastal areas.

Positive Impacts

1. Regional, state and national interests and benefits in these uses will be protected to a large extent.
2. Certainty about local desires regarding these uses will be increased.
3. Conflicts about locations for these uses will be reduced.

Negative Impacts

1. Accommodation of these uses will result in social, economic and environmental impacts in the coastal area; adverse impacts will be lessened through conformance of the use with the other use and area standards of the ACMP.

2. Exclusions of uses of state concern which are allowed will affect regional, state and national interests. Exclusions may be allowed, among other reasons, if reasonable alternatives are available, so the impacts of the use will be shifted to other locations. Shifting these uses to other locations may increase the costs of developing the use.

Section (d) Institutional Impacts

The ACMP affects the relationships, responsibilities and obligations of Federal, state and local governments. These in turn will affect private sector operations. Many of these impacts are the goals of the state's coastal management program. They have already been discussed in environmental, social and economic terms. The following discusses the institutional impacts of the program.

State Coordination

Cooperation among all levels of government, especially among state agencies, is an objective and requirement of the program. Coordination will be achieved in three basic ways. First, state agencies are required to coordinate and

collaborate in the development of plans for each geographic region of the state. Teams of state agencies are identifying "areas meriting special attention" and "uses of state concern" within these regions. Second, the planning and management actions of state agencies must be consistent with the policies and standards of the program, which provide a common basis for all coastal decisions. Finally, policy coordination will be achieved through the Coastal Policy Council, comprised of the directors of all state agencies with a role in the program, as well as local government representatives.

State-Local Relationship

The program sets up a shared state and local responsibility to manage coastal resources. In doing so, the relative responsibilities and obligations of state and local governments, and their relationships, are changed. The most significant change is the obligation on the part of state government to follow the provisions of local or district coastal programs. In turn, local governments are obligated to accommodate, to a large extent, state interests and needs. The effect of the state-local approach is to substitute collaboration and cooperation for confrontation.

Cost of Government

A general increase in the public costs of governing coastal land and water areas is anticipated. These costs will be due to the planning remaining to be completed, the state and local government responsibility to review actions for consistency with the program, and the administration of the program.

In some cases, the cost of organizing to implement the program will not be significant, since the program will become part of existing programs. In other cases, the program will require substantial additional costs, especially in the case of local governments. The guidelines require a number of planning tasks be performed. Some local governments have adequate planning organizations which have already completed much of the groundwork. Others must start from the beginning. The costs of implementing the program will depend on the size of the geographic area and the extent of imminent and existing economic development, among other factors. Estimated annual local government costs in administering the program range from \$35,000 to \$100,000. These costs will be offset to a large extent by funds available to implement the program from the Federal government.

Successful coastal management should result in a net decrease in government costs after a few years, as the program is institutionalized. This will be difficult to quantify, as the savings will be mostly in terms of avoiding expenditures of public funds to pay the costs resulting from no management.

Local-Federal Coordination

An increase in coordination between Federal and local governments is expected. First, local governments are obligated to collaborate with Federal agencies during development of district programs. Second, the Office of Coastal Management and the Department of Community and Regional Affairs are obligated to assist federal involvement in local programs, in recognition of the fact that there will be many local programs in which the federal agencies will have an interest. Further, Federal agencies are obligated to be involved in state coastal management programs, and in programs like Alaska's, this carries an obligation to carry this involvement to the local level as well. The federal consistency requirement of Section 307 of the CZMA will also result in greater local-federal coordination. After a local program is approved under ACMP it will become a part of the state program and thus the federal consistency rules will apply for the content of the local program as well. Federal agencies have an incentive to coordinate for this reason. District programs also represent an opportunity for federal agencies to recognize their own goals and missions.

Certainty About What Is and What Is Not Acceptable

Developers and conservationists are both calling for more certainty in land and water use decisions. Uncertainty is costly to both parties. The numerous state and local government regulatory authorities increase uncertainty about the nature and timing of future development. The program's guidance about proper and improper uses may eliminate some options, but it will also eliminate much uncertainty about local and state desires. The program accommodates the needs of entrepreneurs who need to find sites suitable for development. These factors combine to improve private planning by providing a more predictable and stable business environment. Private costs may increase in order to conform to the program's policies and standards.

Citizen Participation

The public involvement in coastal management to date has been extensive. The program calls for continued substantial citizen and interest group participation in decisions about the allocation of coastal resources. This will facilitate accountable and representative government decision-making.

Local Ability to Respond to Impacts of Resource Developments

Through the district coastal program process, local governments can anticipate and manage the impacts of resource developments. District programs provide a continuing means for responses to unanticipated developments. The organized and accessible information available will substantially assist in this regard.

Coordination on Major Projects

Major resource utilization projects have effects on the state level as well as in the communities where they take place. Coordination early in the evaluation phase is essential. ACMP will be integrated with other programs to assure that this happens. Six tools are available, or will soon be, to increase state coordination.

First, ACMA and ACMP guidelines and standards provide basic policy direction for any development proposal, and these will be made more specific by the policies of district programs. Second, the consistency requirements at both state and federal levels demand that coordination takes place and provides a legal responsibility that cannot be ignored. Third, state agencies can use the regional planning program to unify their positions on major development possibilities, which may result, for example, in the identification of alternative locations. Fourth, in order to assure full state involvement in the consideration of major proposals, a major project review system at the state level will become available. Fifth, the A-95 Clearinghouse system is in place to provide the state with local, federal and private comments on a proposal. Sixth, the one-stop permit system will be available to the developer to assure rapid and coordinated consideration of the various state permits required for a large development.

Recognition of the National Interest

Implementation of ACMP will improve state recognition of the national interest in two ways. First, Federal agencies which often present the national interest as expressed through national legislation, will have a forum to express their views and a continuing demand from state and local agencies to define their concept of the national interest as it relates to various uses and proposals. The second way is reflected in the manner in which the ACMA and ACMP guidelines and standards, prepared with input from various entities, reflect the national interest. As a result, local and state government planning and management will consider the national constituency as well as the state and local constituency.

Section (e) Impacts of District Coastal Programs

Local units of government, or districts, will develop management programs for their coastal areas. These will be developed according to the ACMP guidelines and in conformance with the ACMP standards. Some general points about the anticipated impacts of district programs can be made. First, the process of developing these programs may be controversial as districts make basic decisions about how the ACMP standards apply to their coastal areas. Second, some of the impacts already described in other sections of this document may not be applicable to a district's coastal area. Third, when applicable, the impacts described in other sections of this document in a general sense

will be apparent in a district in a specific sense. Finally, the impacts of district programs will not be significantly different than the impacts described in other sections of this environmental impact statement.

This section describes the anticipated impacts of the three provisions of district programs (areas subject to management, managed uses, and policies) which may be more specific than the ACMP provisions, the impacts of which have been described in other sections of this document. This discussion is based on, among other things, a review of those district programs which are more advanced than others.

1. Areas Subject to Management

Districts may redefine the initial coastal zone boundary, but the final boundary must always include those areas which the initial boundary, that is, the zones of direct interaction and direct influence, aims to cover. The impact of the final boundary will be a better delineation of the initial boundary areas.

Districts may also include within the final boundary, but not subject to direct control, areas in federal ownership or use which are excluded from the coastal zone boundary but which may be transferred to the districts. When transferred, the impact will be the subjection of additional areas to management. This impact will not be different than the impact of the program on areas presently included in the coastal zone boundary.

2. Managed Uses

Districts will identify coastal land and water uses subject to their management programs. To the extent applicable to the district, the managed uses will not be different, but may be more specific, than those uses addressed in the ACMP standards. The impacts of how these uses are managed have already been described.

District programs will also define those uses considered proper and improper. This may be done absolutely for all areas, or for certain areas. Within the limits of discretion prescribed in the ACMP standards, decisions about proper and improper uses decisions will be based on the environmental capability of areas for uses, and the needs and goals of the districts. The impacts of including, restricting and excluding uses of the coastal area have already been described.

3. Policies

District programs will contain policies for coastal land and water uses. These policies will be consistent with the ACMP standards which prescribe how uses and areas are to be managed. Where these standards are less detailed, district standards may be more detailed but not significantly different. The impacts of how uses and areas will be managed have already been described.



The Relationship of the Proposed Action To Land Use Plans, Policies and Controls of the Area



Part V

PART V: RELATIONSHIP OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES AND CONTROLS OF THE AREA

Alaska has a variety of land use plans and programs which affect the coastal area. Some local governments have comprehensive plans and ordinances, while others are in preparation. These plans will have to be revised to incorporate a coastal element which is consistent with the policies, guidelines and standards of the program.

State agencies with plans and programs affecting the coastal area will now have to assure that they are implemented consistent with the program. The ACMP standards approved by the legislature are considered amendments to land and water use policies and regulations presently in force. The policies of state planning, resource and regulatory agencies must conform with the objectives, policies and standards of the program. The ACMP relies on existing state controls to implement these policies and standards.

Certain Federal and state land and water programs, policies and plans were determined to relate to the ACMP, and were coordinated with the ACMP during its development. The state's 208 program which is examining various sources of non-point source pollution will result in regulations which will be worked into the ACMP regulations. The state's 701 program was coordinated with the ACMP to ensure that 701 land use policies are consistent with the ACMP Guidelines and Standards. Funding for community planning under 701 will be in concert with Federal funds under the CZMA to assist in the development of district programs.

Other plans, policies and programs which were coordinated with the ACMP include those related to water resources, planning, national forest land use planning, floodplain management, transportation planning, continental shelf leasing plans, and management plans for Alaska's Federal and state lands. The relationship of these plans, policies and programs with the ACMP is fully described in Chapter 8 of Part II.



Alternatives to the Proposed Action



Part VI

PART VI: ALTERNATIVES TO THE PROPOSED ACTION

The alternatives to approving the Alaska Coastal Management Program are to delay or deny approval. These alternatives would be appropriate if the program is deficient in meeting one or more of the requirements of the Coastal Zone Management Act. Section 305(d) of the Act permits preliminary approval of the program if the program meets the requirements of Section 305 of the Act, but is deficient in meeting one or more of the requirements of Section 306. Preliminary approval allows additional funding for implementation of the approvable parts of the program but not Federal consistency, while unapprovable parts are remedied. It should be noted that Congressional authorization of funding under Section 305 (d) expires on September 30, 1979, so that preliminary approval under Section 305 (d) would, as a practical matter, support further program development only for a very limited time.

The Assistant Administrator has made a preliminary determination that the ACMP is not deficient in any of the requirements necessary for program approval. During the course of program development and review, a few potential deficiencies were identified. While the Assistant Administrator is satisfied that these have been adequately addressed and resolved in the program presently under review, he wishes to elicit public review and comment to assure his preliminary determination is correct.

The following identifies the possible deficiencies which could be the basis for delaying or denying approval of the program. The impacts of not approving the program are: the loss of Federal funds necessary to implement the program, the inability to assure continued consideration of the national interests in siting facilities necessary to meet more than local needs, and the inability to apply Federal consistency. These points are fully discussed in Part IV.

The Assistant Administrator could delay or deny approval of the Alaska Coastal Management Program:

1. If the State Does Not Have All Authorities Necessary to Implement the Program

It has been suggested that the Assistant Administrator delay or deny approval of the ACMP because it fails to comply with Section 306 (c)(7) of the CZMA, requiring that, before the program is approved, the state must have the authority to implement it. Concerns have been based on the proposed land and water use control method which relies on state agency authority to implement the ACMP standards until district programs are approved. The use of direct state control is specifically allowed under Section 306 (e)(1)(B) of the CZMA, and was considered necessary in Alaska because of the need to implement the ACMP before completion and approval of district programs. This approach is similar to that employed in other approved state coastal management programs, including those of California and Oregon. In addition, it is likely that district programs will not be developed in the foreseeable future for certain parts of the Unorganized Borough. In these areas, the ACMP will rely upon direct state control of land and water uses.

Particular concern has been expressed about the sufficiency of state authority to implement the ACMP standards requiring protection of wetlands, and to assure that local land and water use regulations will not unreasonably exclude uses of regional benefit from the coastal area. These concerns are addressed in the following:

(a) Authority to assure the protection of wetlands

The Federal CZMA requires states to demonstrate that their programs will accomplish national objectives, including the conservation and management of important coastal resources. In Alaska, wetlands were identified as an important coastal resource in need of management under an approvable coastal management program.

On the basis of the discussion contained in Chapter 6 of Part II, it has been concluded that the state does have the authority necessary to implement the program in wetlands. By combining the exercise of its proprietary authority over certain wetlands and its regulatory authority over uses proposed for others with its opportunity under Section 401 of the Federal Water Pollution Control Act to prescribe conditions for Federal permits for modification of wetlands, the state can exercise ample authority to control land and water uses in wetland areas consistently with the ACMP.

(b) Authority to assure that local land and water use regulations will not unreasonably exclude uses of regional benefit

Section 306 (e)(2) of the CZMA requires that, before granting approval, the Assistant Administrator must find that the program provides

for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

The OCZM regulations that implement this statutory requirement appear in 15 CFR Sections 923.13 and 923.43.

The argument that the ACMP is deficient in this respect is based upon the circumstance that, under the ACMA, the Alaska Coastal Policy Council can require local governments to provide for "uses of state concern" only in the context of its consideration of proposed district programs. It is alleged that, during the period before its district program is submitted to the Council, a local government possessing zoning authority may arbitrarily exclude "uses of state concern" (including uses of regional benefit) that may conflict with a municipality's purely parochial interest. Because submission of a district program to the Council may take place as long as two years after the program approval date currently under consideration, the argument has been made that in the meantime, uses of regional benefit are subject to arbitrary exclusion from the coastal zone by local governments.

The Assistant Administrator disagrees with this argument, and believes that the state has provided in the ACMP a procedure suitable for assuring that uses of regional benefit and other "uses of state concern" are not excluded from the coastal zone arbitrarily through the exercise of local land and water use regulation. This procedure is based upon the state's inherent eminent domain authority. Both the procedure and the authority upon which it is based are fully described in Chapter 7 of Part II.

Briefly, the state's right of eminent domain may be exercised for public uses authorized by the legislature of the state. It is a general principle of American law that zoning ordinances cannot encroach upon or limit the absolute right of the state or those to whom the right has been delegated to exercise the power of eminent domain. This principle has been reaffirmed by the courts in one state, the eminent domain statutes of which form the basis for the corresponding Alaska provisions. Even in states that have departed from this general principle, the courts have utilized a "balancing of public interests" test, assuring that the statewide interests reflected in a proposed exercise of the state's eminent domain authority are not subject to arbitrary frustration by local zoning ordinances.

In the absence of any decisions of the Alaska Supreme Court on this point, it was concluded that one of the two principles just described is the prevailing law in Alaska. Either one provides the state with an effective means of preventing arbitrary exclusion from the coastal zone of uses of regional benefit under local land and water use regulations.

If it were determined that the state did not have all authorities necessary to implement the program, program approval could be delayed until district programs were completed and approved, or until authorities were established.

2. If the Standards of the Program Are Not Sufficiently Specific

It has been suggested that the Assistant Administrator delay or deny approval of the ACMP because the standards of the program fail to comply with the general CZMA requirements that they be sufficiently specific to indicate how coastal uses and areas will be managed.

The standards of the ACMP are described in Chapter 2 of Part II along with an explanation of their intent. These standards address coastal areas and uses of these areas.

The standards are specific with respect to areas and how these areas will be managed. They indicate in certain terms how coastal land and water habitats are to be managed. They also direct the identification of areas necessary for certain uses, and indicate how other uses are to be managed.

The standards are less specific with respect to priorities of uses. The enormous differences in local environmental, social and economic conditions prevented, in all but a few cases, prescription of use priorities that would be appropriate everywhere on the coast. The standards allow local governments to determine what uses will or will not be allowed, but are clear

about what uses cannot arbitrarily be excluded from the coastal area. Overall, the standards substantially reduce uncertainty and provide enough specificity to be considered approvable.

The present level of specificity in the ACMP standards is a result of the continuing review of the ACMP Guidelines and Standards required of the Alaska Coastal Policy Council, and the concurrent review of the ACMP by the Federal Office of Coastal Zone Management. These reviews resulted in the identification of a number of areas where more specificity in the guidelines and standards was desirable, including the recreation, energy facilities, and timber harvest and processing standards.

Revisions to these and other guidelines and standards were approved by the Council at its meeting of December 14-15, 1978, and have been submitted to the legislature for approval. These revisions are indicated by brackets in Chapter 2 of Part II of this document, and merit the special attention of reviewers. Final Federal action on the ACMP will await the action of the legislature on these amendments to the ACMP Guidelines and Standards.

If it were found that the ACMP standards were not sufficiently specific, program approval could be delayed until district programs were approved or until more specific standards were approved.



Probable Adverse Environmental Effects Which Cannot Be Avoided



Part VII

PART VII: PROBABLE ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

The Alaska Coastal Management Program establishes a method to reconcile competing demands for environmental protection and economic development. The program intends to maximize environmental benefits and minimize any adverse effects which may result as a consequence of economic development. Economic quality and growth are essential if the program is to achieve its objectives.

Adverse impacts may result from implementation of the program. Uses of state concern such as energy, transportation and commerce cannot be arbitrarily or unreasonably excluded from the coastal area. Such uses impact water conditions, marine and coastal ecosystems, community development patterns, potentials of other resources, and fiscal resources. The environmental, social and economic impacts of these uses may be accepted, but the adverse effects will be lessened to a substantial degree by other program standards which protect important coastal land and water areas and uses.

Other standards permit coastal developments such as mining and seafood processing facilities which will have adverse impacts, but the impacts will be lessened in the same way. Most developments will be allowed only after alternative inland locations have been fully considered.

Alaska's coastal management program is not intended to preclude development in the coastal area. As a practical matter, it provides a set of mitigating measures which will affect coastal development. These measures will normally be attached to the permit or approval in the form of "conditions." The conditions will assure compliance with the coastal protection standards, and will have the effect of allowing development to occur in the least damaging way. The agencies administering the standards have a certain amount of discretion in applying those conditions, but the failure to adequately condition permits and approvals to comply with the standards may lead to judicial enforcement orders. Moreover, established review procedures already exist at the Federal, state and local levels for insuring that environmental effects of land and water uses are mitigated to the greatest extent possible on a project-by-project basis.

Other unavoidable impacts which can be detected is that future development proposals may be stopped, delayed, or withdrawn by entrepreneurs due to the costs involved in delays, and so on. To mitigate these possible impacts, a one-stop permit system is being developed. The program itself provides an articulated, official statement about state and local desires which will lessen one of the greatest impediments to coastal development in Alaska: uncertainty. Increased certainty will be beneficial to entrepreneurs who are not only concerned about finding a development site, but who also need guidance about its acceptability.

It is impossible to precisely determine or prejudge the impacts which will follow program implementation for individual parcels of land or resources, since much of this depends on district programs and development proposals which are independent of this Federal action, but it is clear what impacts

have occurred without it, and which created the need for the coastal management program in the eyes of the Alaska public. Because this is an evaluation of a comprehensive and ongoing program, two points have already been demonstrated with respect to adverse impacts:

1. The development of this program has been a thorough process. It is based on broad support and extensive contributions from all of the various institutional interests and the public, and reflects current scientific and technical information. Thus it generally will represent the majority viewpoint of all interests in the development and preservation of Alaska's coastal resources. The basic thrust of the program has been to minimize adverse environmental impacts to these resources so that they may continue to be utilized and enjoyed by future generations as well as present users.

2. An adequate means has been established to ensure that environmental effects of development are kept to a minimum on each development.



**The Relationship Between Local
Short-Term Uses of Man's
Environment and the
Maintenance and Enhancement
of Long-Term Productivity**

Part VIII

PART VIII: RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF THE ENVIRONMENT
AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

While approval of ACMP will restrict some local, short-term uses of the environment, it will also provide long-term assurance that the natural resources and benefits provided by the Alaska coast will be available for use and enjoyment. This theme is central to both the state and Federal programs.

The ACMP does the following:

A. Short-Term Uses

(1) Does not prohibit future development, but creates a system of guided growth based on agreed upon state and local policies for coastal land and water uses.

(2) Recognizes that some energy facilities and coastal-dependent developments will have adverse environmental consequences, but that for various reasons they may still have to be located in the coastal zone.

(3) Allows some short-term uses in the coastal zone but requires developments to provide for long-term benefits.

B. Long-Term Uses

(1) Recognizes the coastal zone is a delicately balanced ecosystem.

(2) Insures the permanent protection of the State's natural and scenic resources.

(3) Assures orderly and balanced utilization and conservation of coastal resources.

(4) Sets forth sound resource conservation principles in objectives, goals, and standards.

(5) Provides for a method which will protect regional, state, and national interests by assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the public, and which avoids long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources.

Absent the implementation of rationally based land and water use management programs, intense short-term uses and gains, such as provided by residential or industrial development, might be realized. However, such uses frequently result in long-term restrictions on coastal resource use and benefits because of degradation of the environment. Without proper management the traditional conflicts between coastal resource users -- residential, commercial, industrial, recreational, agricultural, and wildlife -- may be expected to occur.

By providing a sound basis for decision-making, and by protecting the important segments of the natural system, this management program will directly contribute to the long-term maintenance of the environment.

Public management preserves many options for future public use that may be foreclosed without the program.

It has often been the case that where restrictions are imposed on a proposed development, technical and innovative improvements are generated, thereby bringing more returns at lower public or private cost.

Implementation of the program will result in minimization of the social costs which inevitably accompany environmentally destructive development, the mitigation of which requires public expenditure.



**Irreversible and Irretrievable
Commitments of Resources
That Would Be Involved in the
Proposed Action Should It Be
Implemented**



Part IX

PART IX: IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES THAT WOULD BE INVOLVED IN THE PROPOSED ACTION SHOULD IT BE IMPLEMENTED

The approval of the ACMP will not in itself lead to a loss of resources such as a site specific project would. Tradeoffs between development and preservation will be able to be made based on policy guidance from the program.

The program provides that priority be given to coastal-dependent development (industrial, commercial, and recreational) which may often be the most damaging to the environment. However, in almost all cases, the program's criteria and standards for siting and habitat protection will assure that effective mitigation measures be taken. Development will occur in the absence of program approval, but ACMP will channel such activity toward appropriate sites based on specific coastal land and water use considerations.

The existing economic system of allocating coastal resources among various uses has been labeled "inefficient" and as not being a system which has generally allowed the theoretical maximization of economic benefits. It is believed that the most feasible way to correct the misallocation of resources resulting from the present system of the private market being regulated by an uncoordinated array of Federal, state, and local regulations, is to allow for a carefully reasoned and coordinated public intervention to take place. This is the basis of the Federal and state coastal management program. Therefore, until proven differently, it is expected that there will be a net economic as well as an environmental gain through the use of a coordinated comprehensive plan and program at both the state and local government level.

Implementation of ACMP will require the commitment of fiscal as well as human resources. Fiscal resources include Federal 306 grants and state matching funds as well as other monies needed to implement the program. Human resources include the person hours required of federal, state, and local governments for program administration. However, approval of ACMP is not an "irretrievable" commitment of Federal financial resources. A decision to go forward with approval is a Federal action subject to modification or termination based upon a review of the performance of ACMP under Section 312 of the CZMA. In terms of commitment of Alaska's coastal natural resources, the entire program, within the limits of its scope and application, is designed to evaluate the commitment of specific resources prior to a particular action in terms of a "balancing" mechanism very similar to that contemplated by NEPA through the 102(c) requirements.

In the broadest sense, ACMP may be viewed as a means for assuring that decisions involving the irretrievable commitment of coastal resources will be made with consideration of potential costs and benefits to the general public. In the past, coastal developments accruing economic benefits to a few have been permitted with little or no regard to the full intrinsic value of coastal resources to the greater public. The ACMP will encourage decision makers to make informed choices for various resource commitments.



Consultation and Coordination



Part X

PART X: CONSULTATION AND COORDINATION

Extensive consultation, coordination, and contribution has been received in developing the Alaska Coastal Management Program and this EIS. Because the program was developed with the natural and human environment in mind, many alternatives have been considered.

The Office of Coastal Zone Management requires that a state conduct an environmental impact assessment on their coastal management program prior to any approval of the program. This assessment is then used in developing the EIS. Additional contributions have been received from various Federal agencies throughout the duration of a state's coastal program development period, regarding such matters as the impact of the program on the Federal agency program as well as an analysis of the program.

The development of the Alaska Coastal Management Program has been a thorough, well-publicized and documented process, and rather than again describe this very substantial state effort, the reader is directed to Chapter 8 of Part II, which pertains to consultation, coordination, and the public and private interest review which has been solicited and acted upon.

Coordination with all local, state, Federal, public, and private interests remains a key component of the Alaska Coastal Management Program. Local governments will have major responsibilities for coastal management and they are the most accessible and accountable to their constituents. Continuous consultation and coordination will continue at all institutional levels during district program development, state permit reviews, and subsequently, by local accountability to the public.

With specific regard to this EIS, a special effort at consultation was mounted to obtain the views of various experts and officials. The following individuals and organizations were interviewed in the course of preparing this EIS:

Division of Policy Development and Planning

Dona Lehr
Sally Rue
Bruce Baker

Alaska Dept. of Fish and Game

Lance Trasky
Richard Cannon
Dick Logan
John Clark

Alaska Department of Natural Resources

Pam Rogers
Al Meiners
Randy Updike
Bob Goddard

Alaska Department of Environmental Conservation

Glenn Akins
Kurt Fredriksson
Doug Redburn

Alaska Department of Community & Regional Affairs

Mark Stephens
Veronica Clark
Lois Kramer

Alaska Dept. of Transportation & Public Facilities

John Umlauf

U. S. Army Corps of Engineers

U. S. Fish and Wildlife Service

Bureau of Land Management - Outer Continental Shelf Office

U. S. National Park Service

Kenai Peninsula Borough

Phil Waring - Planning Director

Kodiak Island Borough

Harry Mulligan - Planning Department

Klawock-Craig Planning Office

City of Valdez

Mike Schmidt - City Planner

Municipality of Anchorage

Tom Nelson - Planning Office

City and Borough of Juneau

Tom Lawson - Planning Office
Ron Bolton - Planning Office

North Slope Borough

Herb Bartel - Borough Planner

United Fishermen of Alaska

Alaska Loggers Association

Alaska Legal Services Corporation

Alaska Oil and Gas Association

Aleutian Pribilof Association

Nunam Kitlusi

In addition to the consultation with those identified above, many other sources of information were consulted during preparation of this EIS.

These sources of information include the following:

State-Local Collaborative Planning: A Growing Trend in Coastal Zone Management. A report prepared by Jens Sorensen for the Office of Coastal Zone Management, Washington, D. C., July 1978.

Planning for Offshore Oil Development: Gulf of Alaska OCS Handbook. Alaska Department of Community and Regional Affairs, Juneau, 1978.

Business Prospects Under Coastal Zone Management. A report prepared by the Real Estate Research Corporation for the Office of Coastal Zone Management, Washington, D. C., March 1976.

The Alaska Economy: Annual Performance Report for 1977. Alaska Department of Commerce and Economic Development, Juneau, 1977.

The Environment of Alaska: Analysis of the Impact of Potential Development. Joint Federal-State Land Use Planning Commission, Anchorage, 1976.

Tourism in Alaska's Coastal Zone: An Economic Study. Alaska Department of Environmental Conservation, Juneau, 1975.

The Environment of Alaska: An Analysis of Physical and Biological Determinants. Joint Federal-State Land Use Planning Commission, Anchorage, 1976.

Major Ecosystems of Alaska. Joint Federal-State Land Use Planning Commission, Anchorage, 1973.

Resources of Alaska: A Regional Summary. Joint Federal-State Land Use Planning Commission, Anchorage, 1974.

Alaska Regional Profiles. Arctic Environmental Information and Data Center, University of Alaska, Anchorage, 1976. Volumes I-VI.



Appendix I

The Alaska Coastal Management Act

ALASKA COASTAL MANAGEMENT ACT *

1977

* Note: When this Act was codified, it was placed in three different statute sections, the majority of it, however, was codified in AS 46.40.



LAWS OF ALASKA

1977

Source

CCS SCS CSHB 342

Chapter No.

84

AN ACT

Relating to the management of the coastal resources of the state; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

(1) the coastal area of the state is a distinct and valuable natural resource of concern to all the people of the state;

(2) the demands upon the resources of the coastal area are significant, and will increase in the future;

(3) the protection of the natural and scenic resources and the fostering of wise development of the coastal area are of concern to present and future citizens of the state;

(4) the capacity of the coastal area to withstand the demands upon it is limited;

(5) the degree of planning and resource allocation which has occurred in the coastal area has often been motivated by short-term considerations, unrelated to sound planning principles; and

(6) in order to promote the public health and welfare, there is a critical need to engage in comprehensive land and water use planning in coastal areas and to establish the means by which a planning process and management program involving the several governments and areas of the unorganized borough having an interest in the coastal area may be effectively implemented.

* Sec. 2. LEGISLATIVE POLICY. It is the policy of the state to

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(1) preserve, protect, develop, use, and, where necessary, restore or enhance the coastal resources of the state for this and succeeding generations;

(2) encourage coordinated planning and decision making in the coastal area among levels of government and citizens engaging in or affected by activities involving the coastal resources of the state;

(3) develop a management program which sets out policies, objectives, standards and procedures to guide and resolve conflicts among public and private activities involving the use of resources which have a direct and significant impact upon the coastal land and water of the state;

(4) assure the participation of the public, local governments, and agencies of the state and federal governments in the development and implementation of a coastal management program;

(5) utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve the policies set out in this section; and

(6) authorize and require state agencies to carry out their planning duties, powers and responsibilities and take actions authorized by law with respect to programs affecting the use of the resources of the coastal area in accordance with the policies set out in this section and the guidelines and standards adopted by the Alaska Coastal Policy Council under AS 46.35.

* Sec. 3. AS 44.19 is amended by adding new sections to read:

ARTICLE 11A. ALASKA COASTAL POLICY COUNCIL.

Sec. 44.19.891. ALASKA COASTAL POLICY COUNCIL. (a) There is created in the Office of the Governor the Alaska Coastal Policy Council. The council consists of the following:

(1) nine public members appointed by the governor from a list comprised of at least three names from each region, nominated by the municipalities of each region; the nominees shall be the mayor or member of the assembly or council of a municipality; one public member shall be appointed from each of the following general regions:

(A) northwest Alaska, including, generally, the area of the North Slope Borough and the Northwest Arctic regional educational attendance area;

(B) Bering Straits, including, generally, the area of the Bering Straits regional educational attendance area;

(C) southwest Alaska, including, generally, the area within the Lower Yukon, Lower Kuskokwim, Southwest, and Lake-Peninsula regional educational attendance areas and the Bristol Bay Borough;

(D) Kodiak-Aleutians, including the area of the Kodiak Island Borough and the Aleutian, Adak and Pribilof regional educational attendance areas;

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(E) Upper Cook Inlet, including the Municipality of Anchorage and the Matanuska-Susitna Borough;

(F) Lower Cook Inlet, including, generally, the area within the Kenai Peninsula Borough;

(G) Prince William Sound, including, generally, the area east of the Kenai Peninsula Borough to 141° W. longitude;

(H) northern Southeast Alaska, including the area southeast of 141° W. longitude and north of 57° N. latitude, including the entirety of the City and Borough of Sitka; and

(I) southern Southeast Alaska, including that portion of southeastern Alaska not contained within the area described in (H) of this paragraph;

(2) each of the following:

(A) the director of the division of policy development and planning;

(B) the commissioner of the Department of Commerce and Economic Development;

(C) the commissioner of the Department of Community and Regional Affairs;

(D) the commissioner of the Department of Environmental Conservation;

(E) the commissioner of the Department of Fish and Game;

(F) the commissioner of the Department of Natural Resources; and

(G) the commissioner of the Department of Public Works.

(b) Each public member appointed by the governor under (a)(1) of this section serves a term of two years and until his successor is appointed and qualified, except that the term of office of a public member first appointed under (a)(1)(A), (a)(1)(C), (a)(1)(E) and (a)(1)(G) of this section shall be one year. A public member may be reappointed.

(c) The council shall designate co-chairmen, one of whom shall be selected from among the public members appointed under (a)(1) of this section and one from among the members designated in (a)(2) of this section.

(d) Members appointed under (a) of this section may select one person to serve as a permanent alternate at meetings of the council. If the member appointed is unable to attend, the alternate may act in his place.

(e) Four public members and three designated members of the council constitute a quorum, but one or more of the members designated by the council may hold hearings. All decisions of the council shall be by a majority vote of the

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members present and voting.

(f) Members of the council or their alternates are entitled to per diem and travel expenses authorized by law for members of boards and commissions.

(g) If there is a vacancy among the public members appointed under (a)(1) of this section, the governor shall make an appointment to become immediately effective for the unexpired portion of the term.

Sec. 44.19.892. POWERS OF THE COUNCIL. The council may

(1) apply for and accept grants, contributions, and appropriations, including application for and acceptance of federal funds which may become available for coastal planning and management;

(2) contract for necessary services;

(3) consult and cooperate with

(A) persons, organizations, and groups, public or private, interested in, affected by, or concerned with coastal area planning and management;

(B) agents and officials of the coastal resource districts of the state, and federal and state agencies concerned with or having jurisdiction over coastal planning and management;

(4) take any reasonable action necessary to carry out the provisions of secs. 891 - 894 of this chapter.

Sec. 44.19.893. DUTIES OF THE COUNCIL. In conformity with the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), the council shall

(1) through the public hearing process and the recording of the minutes of the hearings, develop guidelines and standards for the preparation of, and approve, in accordance with AS 46.35, the Alaska coastal management program;

(2) establish continuing coordination among state agencies to facilitate the development and implementation of the Alaska coastal management program; in carrying out its duties under this paragraph, the council shall initiate an interagency program of comprehensive coastal resource planning for each geographic region described in sec. 891-(a)(1) of this chapter;

(3) assure continued provision of data and information to coastal resource districts to carry out their planning and management functions under the program;

(4) submit annually to the legislature, not later than the 10th day of each regular session, the portion of the coastal management program approved or amended by the council during the preceding year.

Sec. 44.19.894. COUNCIL STAFF. The council shall

utilize the staff of the office of coastal management within the division of policy development and planning in discharging its powers and duties. The coordinator of the office, with the concurrence of the council, may contract with or employ personnel or consultants he considers necessary to carry out the powers and duties of the council.

* Sec. 4. AS 46 is amended by adding a new chapter to read:

CHAPTER 35. THE ALASKA COASTAL MANAGEMENT PROGRAM.

ARTICLE 1 DEVELOPMENT OF ALASKA COASTAL MANAGEMENT PROGRAM.

Sec. 46.35.010. DEVELOPMENT OF ALASKA COASTAL MANAGEMENT PROGRAM. (a) The Alaska Coastal Policy Council established in AS 44.19.891 shall approve, in accordance with secs. 10 - 210 of this chapter, the Alaska coastal management program.

(b) The council may approve the Alaska coastal management program for a portion or portions of the coastal area before approving the complete program under (a) of this section. Portions of the program approved under this subsection shall be incorporated into the Alaska coastal management program.

(c) The Alaska coastal management program shall be reviewed by the council and, when appropriate, revised to

(1) add newly approved district coastal management programs, or revisions and amendments to the Alaska coastal management program;

(2) integrate newly approved district coastal management programs, or revisions and amendments of district coastal management programs, with existing approved programs and with plans developed by state agencies;

(3) add new or revised state statutes, policies, regulations or other appropriate material;

(4) review the effectiveness of implementation of district coastal management programs; and

(5) consider new information acquired by the state and coastal resource districts.

(d) All reviews and revisions shall be in accordance with the guidelines and standards adopted by the council under sec. 40 of this chapter.

Sec. 46.35.020. OBJECTIVES. The Alaska coastal management program shall be consistent with the following objectives:

(1) the use, management, restoration and enhancement of the overall quality of the coastal environment;

(2) the development of industrial or commercial enterprises which are consistent with the social, cultural, historic, economic and environmental interests of the people of the state;

(3) the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;

(4) the management of coastal land and water uses in such a manner that, generally, those uses which are economically or physically dependent on a coastal location are given higher priority when compared to uses which do not economically or physically require a coastal location,

(5) the protection and management of significant historic, cultural, natural and aesthetic values and natural systems or processes within the coastal area;

(6) the prevention of damage to or degradation of land and water reserved for their natural values as a result of inconsistent land or water usages adjacent to that land;

(7) the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs; and

(8) the full and fair evaluation of all demands on the land and water in the coastal area.

Sec. 46.35.030. DEVELOPMENT OF DISTRICT COASTAL MANAGEMENT PROGRAMS. Coastal resource districts shall develop and adopt district coastal management programs in accordance with the provisions of this chapter. The program adopted by a coastal resource district shall be based upon a municipality's existing comprehensive plan or a new comprehensive resource use plan or comprehensive statement of needs, policies, objectives and standards governing the use of resources within the coastal area of the district. The program shall be consistent with the guidelines and standards adopted by the council under sec. 40 of this chapter and shall include:

(1) a delineation within the district of the boundaries of the coastal area subject to the district coastal management program;

(2) a statement, list, or definition of the land and water uses and activities subject to the district coastal management program;

(3) a statement of policies to be applied to the land and water uses subject to the district coastal management program;

(4) regulations, as appropriate, to be applied to the land and water uses subject to the district coastal management program;

(5) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to the land and water within the coastal area;

(6) a summary or statement of the policies which will be applied and the procedures which will be used to determine whether specific proposals for land or water uses

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or activities shall be allowed; and

(7) a designation of, and the policies which will be applied to the use of, areas within the coastal resource district which merit special attention.

Sec. 46.35.040. DUTIES OF THE ALASKA COASTAL POLICY COUNCIL. Through the public hearing process and the recording of the minutes of the hearings, the Alaska Coastal Policy Council shall

(1) by regulation, adopt under the provisions of the Administrative Procedure Act (AS 44.62), within six months of the effective date of this Act, for the use of and application by coastal resource districts and state agencies for carrying out their responsibilities under this chapter, guidelines and standards for

(A) identifying the boundaries of the coastal area subject to the district coastal management program;

(B) determining the land and water uses and activities subject to the district coastal management program;

(C) developing policies applicable to the land and water uses subject to the district coastal management program;

(D) developing regulations applicable to the land and water uses subject to the district coastal management program;

(E) developing policies and procedures to determine whether specific proposals for the land and water uses or activities subject to the district coastal management program shall be allowed;

(F) designating and developing policies for the use of areas of the coast which merit special attention; and

(G) measuring the progress of a coastal resource district in meeting its responsibilities under this chapter;

(2) develop and maintain a program of technical and financial assistance to aid coastal resource districts in the development and implementation of district coastal management programs;

(3) undertake review and approval of district coastal management programs in accordance with this chapter;

(4) initiate a process for identifying and managing uses of state concern within specific areas of the coast;

(5) develop procedures or guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting the coastal area of the state.

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Sec. 46.35.050. ACTION AND SUBMISSION BY COASTAL RESOURCE DISTRICTS. Each coastal resource district shall make substantial progress, in the opinion of the council, toward completion of an approvable district coastal management program and shall complete and submit to the council for approval its program within 30 months of the effective date of this Act or within 30 months of certification of the results of the district's organization, whichever is later.

Sec. 46.35.060. REVIEW AND APPROVAL BY COUNCIL. (a) If, upon submission of a district coastal management program for approval, the council finds that the program is substantially consistent with the provisions of this chapter and the guidelines and standards adopted by the council and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the council may grant summary approval of the district coastal management program, or may approve portions of the district program which are consistent.

(b) If the council finds that a district coastal management program is not approvable or is approvable only in part under (a) of this section, it shall direct that deficiencies in the program submitted by the coastal resource district be mediated. In mediating the deficiencies, the council may call for one or more public hearings in the district. The council shall meet with officials of the coastal resource district in order to resolve differences.

(c) If, after mediation, the differences have not been resolved to the mutual agreement of the coastal resource district and the council, the council shall call for a public hearing and shall resolve the differences in accordance with the Administrative Procedure Act (AS 44.62). After a public hearing held under this subsection, the council shall enter findings and, by order, may require

(1) that the district coastal management program be amended to make it consistent with the provisions of this chapter or the guidelines and standards adopted by the council;

(2) that the district coastal management program be revised to accommodate a use of state concern; or

(3) any other action be taken by the coastal resource district as appropriate.

(d) The superior courts of the state have jurisdiction to enforce orders of the council entered under (c) of this section.

Sec. 46.35.070. STANDARDS FOR COUNCIL REVIEW AND APPROVAL. (a) The council shall approve a district coastal management program submitted for review and approval if the program is consistent with the provisions of this chapter and the guidelines and standards adopted by the council.

(b) Notwithstanding an inconsistency of a district coastal management program submitted for review and approval with the guidelines and standards adopted, the council shall approve the program if it finds that

(1) strict adherence to the guidelines and standards adopted would result in a violation of another state law or policy;

(2) strict adherence to the guidelines and standards adopted would cause or probably cause substantial irreparable harm to another interest or value in the coastal area of the district; or

(3) the inconsistency is of a technical nature and no substantial harm would result to the policies and objectives of this chapter or the Alaska coastal management program.

(c) In determining whether a restriction or exclusion of a use of state concern is arbitrary or unreasonable, the council shall approve the restriction or exclusion if it finds that

(1) the coastal resource district has consulted with and considered the views of appropriate federal, state or regional agencies;

(2) the district has based its restriction or exclusion on the availability of reasonable alternative sites; and

(3) the district has based its restriction or exclusion on an analysis showing that the proposed use is incompatible with the proposed site.

(d) A decision by the council under this section shall be given within 90 days.

Sec. 46.35.080. EFFECTIVE DATE OF ALASKA COASTAL MANAGEMENT PROGRAM. The Alaska coastal management program adopted by the council, and any additions, revisions, or amendments of the program, take effect upon adoption of a concurrent resolution by a majority of the members of each house of the legislature or by a vote of the majority of the members of each house at the time the houses are convened in joint session to confirm executive appointments submitted by the governor.

Sec. 46.35.090. IMPLEMENTATION OF DISTRICT COASTAL MANAGEMENT PROGRAMS. (a) A district coastal management program approved by the council and the legislature for a coastal resource district which does not have and exercise zoning or other controls on the use of resources within the coastal area shall be implemented by appropriate state agencies. Implementation shall be in accordance with the comprehensive use plan or the statement of needs policies, objectives and standards adopted by the district

(b) A coastal resource district which has and exercises zoning or other controls on the use of resources within the coastal area shall implement its district coastal management program. Implementation shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives and standards adopted by the district.

Sec. 46.35.100. COMPLIANCE AND ENFORCEMENT. (a) Municipalities and state agencies shall administer land and

water use regulations or controls in conformity with district coastal management programs approved by the council and the legislature and in effect.

(b) On petition of a coastal resource district, a citizen of the district, or a state agency, showing that a district coastal management program is not being implemented, enforced or complied with, the council shall convene a public hearing to consider the matter. A hearing called under this subsection shall be held in accordance with the Administrative Procedure Act (AS 44.62). After hearing, the council may order that the coastal resource district or state agency take any action which the council considers necessary to implement, enforce or comply with the district coastal management program.

(c) In determining whether an approved district coastal management program is being implemented, enforced or complied with by a coastal resource district which exercises zoning authority or controls on the use of resources within the coastal area, the council shall find in favor of the district if

(1) zoning or other regulations have been adopted and are being enforced;

(2) variances are being granted according to procedures and criteria which are elements of the district coastal management program, or the variance is otherwise approved by the council; and

(3) procedures and standards adopted by the coastal resource district as required by this chapter or by the guidelines and standards adopted by the council and subsequently approved by the legislature have been followed and considered.

(d) In determining whether a state agency is complying with a district coastal management program with respect to its exercise of regulation or control of the resources within the coastal area, the council shall find in favor of the agency if

(1) the use or activity for which the permit, license or approval is granted is consistent with the district coastal management program and regulations adopted under it; and

(2) the use or activity for which the permit, license or approval is granted is consistent with requirements imposed by state statute, regulation, or local ordinance applicable to the use or activity.

(e) The superior courts of the state have jurisdiction to enforce lawful orders of the council.

ARTICLE 2. COASTAL MANAGEMENT PROGRAMS IN THE UNORGANIZED BOROUGH.

Sec. 46.35.110. AUTHORITY IN THE UNORGANIZED BOROUGH. Under AS 29.03.020 and secs. 110 - 180 of this chapter, the legislature authorizes organization of coastal resource service areas in the unorganized borough and grants

authority to the service areas which may be organized to perform the duties required under this chapter.

Sec. 46.35.120. COASTAL RESOURCE SERVICE AREAS. (a) Except as provided in (b) of this section, each regional educational attendance area established under AS 14.08.031 containing a part of the coastal area may be organized as a coastal resource service area.

(b) The commissioner of the Department of Community and Regional Affairs may, after public hearings held in the area affected, consolidate two or more regional educational attendance areas as a single coastal resource service area

(1) if a substantial portion of the coastal area contains land and water area owned by the federal government over which it exercises exclusive jurisdiction or land held in trust by the federal government for Alaska Natives over which the state would not exercise control as to use; or

(2) if, after giving due consideration to the standards applicable to incorporation of borough governments and the likelihood that a borough will be incorporated within the area, the commissioner determines that the functions to be performed under this chapter could be undertaken more efficiently through the combination of two or more regional educational attendance areas as a single coastal resource service area.

(c) A determination under (b) of this section shall be made before organization of the coastal resource service area and no later than six months from the effective date of this Act.

Sec. 46.35.130. ORGANIZATION OF COASTAL RESOURCE SERVICE AREA. (a) Organization of a coastal resource service area may be initiated by

(1) submission to the council of a petition signed by a number of registered voters equal to 15 per cent of the number of votes cast within the coastal resource service area at the last state general election;

(2) submission to the council of a resolution approved by the city council or traditional village council of not less than 25 per cent of the number of cities and villages within the coastal resource service area; or

(3) at the direction of a majority of the members of the council in the manner set out in sec. 160 of this chapter.

(b) Acting at the request of the council, the lieutenant governor, not less than 60 nor more than 90 days after receipt of a proper petition under (a)(1) of this section, a proper resolution under (a)(2) of this section, or at the direction of the council under (a)(3) of this section, shall conduct an election on the question of organization of a coastal resource service area.

Sec. 46.35.140. COASTAL RESOURCE SERVICE AREA BOARDS. (a) Each coastal resource service area, upon organization, shall have an elected board representing the population of

the service area. The board shall have the powers and duties and perform the functions prescribed for or required of coastal resource districts.

(b) A coastal resource service area board shall contain seven members. Board members shall be elected at large by the qualified voters of the coastal resource service area.

(c) The commissioner of the Department of Community and Regional Affairs, after consultation with residents of a coastal resource service area, may divide a service area into sections only for the purpose of nominating and electing board members. Division of a service area into sections for the purpose of nomination and election shall be in accordance with the provisions of AS 14.08.051(a). Division may be proposed in the petition submitted under sec. 130(a)(1) of this chapter, in the resolution submitted under sec. 130(a)(2) of this chapter, at the direction of the council under sec. 130(a)(3) of this chapter, or may be proposed at any time by the members of the coastal resource service area board. If proposed by the board, the division of the service area into sections is subject to approval of a majority of the qualified voters voting on the question in the coastal resource service area at the next regular election or at a special election called for that purpose and, if approved, takes effect at the next regular election of members of the coastal resource service area board.

(d) The term of office of a member of a coastal resource service area board is three years, except that the terms of the members of the first board elected after organization of a coastal resource service area shall be determined by lot, with two members serving one-year terms, two members serving two-year terms, and three members serving three-year terms. Members serve until their successors are elected and have qualified. Nothing in this section prohibits the reelection of a board member.

(e) The lieutenant governor shall provide for the election of the members of coastal resource service area boards. The first election of board members shall occur not less than 60 nor more than 90 days after certification of the results of an organization election under sec. 130(b) of this chapter in which a majority of votes cast favors organization of the coastal resource service area.

(f) Except for the first election of members of coastal resource service area boards, elections shall be held annually on the date of election of members of regional educational attendance area boards under AS 14.08.071(b).

(g) A vacancy on a coastal resource service area board shall be filled by appointment as provided in AS 14.08.041-(a) for vacancies in the membership of regional educational attendance area boards.

(h) Members of coastal resource service area boards are subject to recall on the same grounds and in the same manner as provided for recall of municipal officials in AS 29.28.130 - 29.28.250. The lieutenant governor functions in place of the assembly or council and municipal clerk for receipt and review of recall petitions and the conduct of

recall elections.

Sec. 46.35.150. ELECTIONS IN COASTAL RESOURCE SERVICE AREAS. Organization elections under sec. 130 of this chapter and other elections, including recall elections conducted under sec. 140 of this chapter, shall be administered by the lieutenant governor in the general manner provided in the Alaska Election Code (AS 15.05 - 15.60). In addition, the lieutenant governor may adopt regulations necessary to the conduct of coastal resource service area board elections. The state shall pay all election costs.

Sec. 46.35.160. ORGANIZATION AT THE DIRECTION OF THE COUNCIL. (a) Whenever it appears that major economic development activity will occur in a coastal resource service area or in waters adjacent to a coastal resource service area which has not been organized, the council may direct the lieutenant governor to submit to the voters of the service area the question of organization. The council may require an election on the question only after holding at least one public hearing within the area proposed for organization.

(b) For purposes of this section, "major economic development activity" includes a call for nomination by the Secretary of the United States Department of the Interior for leasing of tracts within petroleum basins in waters of the outer continental shelf adjacent to the coastal resource service area or any other significant industrial or commercial activity which, in the opinion of the council, would commit the resources of the coastal area to a use of direct and significant impact upon the coastal waters of the state.

Sec. 46.35.170. PREPARATION OF DISTRICT COASTAL MANAGEMENT PROGRAM BY THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. (a) If residents of a coastal resource service area reject organization of the service area at an election called for the purpose and the council finds, after public hearing, that major economic development activity has occurred or will occur within the service area, the council may direct the Department of Community and Regional Affairs to prepare and recommend for consideration by the council and for submission to the legislature a district coastal management program for the service area.

(b) At the request of the council, the Department of Community and Regional Affairs shall complete the district coastal management program in accordance with this chapter and the guidelines and standards adopted by the council for a coastal resource service area which has been organized but which has failed to make substantial progress in the preparation of an approvable district coastal management program within 18 months of certification of the results of an organization election or which has not submitted for approval to the council a program within 30 months of certification of the results of its organization election. Preparation of the program shall be conducted in consultation with the coastal resource service area and shall, to the maximum extent consistent with this chapter, reflect the expressed concerns of the residents of the service area.

(c) Before requesting the department to complete the district coastal management program under (b) of this

section, the council shall meet with the members of the coastal resource service area board to determine whether the board is able to complete a district coastal management program within the time limitations established in this section.

Sec. 46.35.180. APPROVAL OF PROGRAMS IN COASTAL RESOURCE SERVICE AREAS. (a) Before adoption by a coastal resource service area board, or by the Department of Community and Regional Affairs under sec. 170 of this chapter, a district coastal management program shall be submitted for review to each city or village within the coastal resource service area. The council of a city or traditional village council shall consider the program submitted for review. Within 60 days of submission, the council of a city or traditional village council shall either approve the program or enter objections to all or any portion of the program.

(b) If a city or village within a coastal resource service area fails to approve a portion of the district coastal management program prepared and submitted for approval under (a) of this section, the governing body shall advise the coastal resource service area board or the department, as applicable, of its objections to the proposed program and suggest alternative elements or components for inclusion in the district coastal management program. New matter submitted by a city or village which is substantially consistent with the guidelines and standards adopted by the council shall be accepted and the district coastal management program modified accordingly. If a city or village fails to provide objections and suggested alternatives within the time limits established in this section, the coastal resource service area board or the department, as applicable, may adopt the district coastal management program as initially offered.

(c) Objection by a city council under (b) of this section is limited to objection to elements of the program affecting resources or the use of resources within the corporate limits of the city. Objection by a traditional village council under (b) of this section is limited to objection to elements of the program affecting resources or the use of resources within the village or within two miles of the village.

(d) For purposes of this section, "village" means an unincorporated community where at least 25 persons reside as a social unit as determined by the Department of Community and Regional Affairs.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 46.35.190. COOPERATIVE ADMINISTRATION. (a) A city within the coastal area which is not part of an adjacent coastal resource service area may include itself for purposes of this chapter within an adjacent coastal resource service area if its governing body, by resolution adopted by a majority of its membership, consents to the inclusion of the city and a copy of the resolution is filed with the commissioner of the Department of Community and Regional Affairs.

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(b) Nothing in this chapter restricts or prohibits cooperative or joint administration of functions between a municipality and a coastal resource service area organized under the provisions of this chapter upon initiation of a mutual agreement for the purpose.

Sec. 46.35.200. STATE AGENCIES. Upon the adoption of the Alaska coastal management program, state departments, boards and commissions shall review their statutory authority, administrative regulations, and applicable procedures pertaining to land and water uses within the coastal area for the purpose of determining whether there are any deficiencies or inconsistencies which prohibit compliance with the program adopted. State agencies shall, within six months of the effective date of the Alaska coastal management program, take whatever action is necessary to facilitate full compliance with and implementation of the program, including preparation and submission of recommendations to the council for additional or amended legislation.

Sec. 46.35.210. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "area which merits special attention" means a delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to council definition of criteria for their identification, include:

(A) areas of unique, scarce, fragile or vulnerable natural habitat, cultural value, historical significance, or scenic importance;

(B) areas of high natural productivity or essential habitat for living resources;

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon the utilization of, or access to, coastal waters;

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

(F) areas of significant hazard due to storms, slides, floods, erosion or settlement; and

(G) areas needed to protect, maintain, or replenish coastal land or resources, including coastal flood plains, aquifer recharge areas, beaches and offshore sand deposits;

(2) "coastal resource district" means each of the following which contains a portion of the coastal area of

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the state:

(A) unified municipalities established under AS 29.68.240 - 29.68.440;

(B) organized boroughs of any class which exercise planning and zoning authority;

(C) home rule and first class cities of the unorganized borough or within boroughs which do not exercise planning and zoning authority;

(D) second class cities of the unorganized borough, or within boroughs which do not exercise planning and zoning authority, which have established a planning commission, and which, in the opinion of the commissioner of the Department of Community and Regional Affairs, have the capability of preparing and implementing a comprehensive district coastal management program under sec. 30 of this chapter;

(E) coastal resource service areas established and organized under AS 29.03.020 and secs. 110 - 180 of this chapter;

(3) "council" means the Alaska Coastal Policy Council;

(4) "department" means the Department of Community and Regional Affairs;

(5) "use of direct and significant impact" means a use, or an activity associated with the use, which proximately contributes to a material change or alteration in the natural or social characteristics of a part of the state's coastal area and in which

(A) the use, or activity associated with it, would have a net adverse effect on the quality of the resources of the coastal area;

(B) the use, or activity associated with it, would limit the range of alternative uses of the resources of the coastal area; or

(C) the use would, of itself, constitute a tolerable change or alteration of the resources within the coastal area but which, cumulatively, would have an adverse effect;

(6) "uses of state concern" means those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include:

(A) uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

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(B) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

(D) facilities serving statewide or interregional transportation and communication needs; and

(E) uses in areas established as state parks or recreational areas under AS 41.20 or as state game refuges, game sanctuaries or critical habitat areas under AS 16.20.

* Sec. 5. AS 44.47 is amended by adding a new section to read:

Sec. 44.47.095. PLANNING ASSISTANCE FOR DEVELOPMENT AND MAINTENANCE OF DISTRICT COASTAL MANAGEMENT PROGRAMS. The department shall conduct a program of research, training, and technical assistance to coastal resource districts necessary for the development and implementation of district coastal management programs under AS 46.35. The technical assistance shall include the direct granting to the coastal resource districts of a portion of any funds received by the state from the federal coastal zone management program, in amounts to be individually determined for each coastal resource district by the commissioner. State agencies shall assist the department in carrying out the purposes of this section.

* Sec. 6. The Administrative Regulation Review Committee established in AS 24.20.400 - 24.20.460 shall review the administrative regulations adopted by the executive departments of the state government which affect the resources and use of the resources of the state's coastal area. The committee shall, not later than January 20, 1979, make formal recommendation with respect to annulment of regulations adopted which, in the opinion of the committee, fail to implement, interpret or carry out the policies, objectives and standards of the Alaska coastal management program. The recommendations of the committee shall be transmitted to the first regular session of the Eleventh Alaska Legislature.

* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.070(c).



Appendix 2

Amendments to the Alaska Coastal Management Act

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR CS FOR SENATE BILL NO. 388

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the state's coastal management pro-
7 gram; and providing for an effective date."

8 * Section 1. AS 46.40.040(1) is amended to read:

9 (1) by regulation, adopt under the provisions of the Admini-
10 strative Procedure Act (AS 44.62), not later than April 15, 1978 [WITHIN
11 SIX MONTHS OF THE EFFECTIVE DATE OF THIS ACT], for the use of and appli-
12 cation by coastal resource districts and state agencies for carrying out
13 their responsibilities under this chapter, guidelines and standards, for

14 (A) identifying the boundaries of the coastal area sub-
15 ject to the district coastal management program;

16 (B) determining the land and water uses and activities
17 subject to the district coastal management program;

18 (C) developing policies applicable to the land and water
19 uses subject to the district coastal management program;

20 (D) developing regulations applicable to the land and
21 water uses subject to the district coastal management program;

22 (E) developing policies and procedures to determine
23 whether specific proposals for the land and water uses or activi-
24 ties subject to the district coastal management program shall be
25 allowed;

26 (F) designating and developing policies for the use of
27 areas of the coast which merit special attention; and

28 (G) measuring the progress of a coastal resource dis-
29 trict in meeting its responsibilities under this chapter;

1 * Sec. 2. AS 46.40.120(c) is amended to read:

2 (c) A determination under (b) of this section shall be made before
3 organization of the coastal resource service area [AND NO LATER THAN SIX
4 MONTHS FROM THE EFFECTIVE DATE OF THIS ACT].

5 * Sec. 3. AS 46.40.210(6)(C) is amended to read:

6 (C) the siting of major energy facilities, activities
7 pursuant to a state oil and gas lease, or large-scale industrial or
8 commercial development activities which are dependent on a coastal
9 location and which, because of their magnitude or the magnitude of
10 their effect on the economy of the state or the surrounding area,
11 are reasonably likely to present issues of more than local signi-
12 ficance;

13 * Sec. 4. AS 44.19.891(d) is repealed and re-enacted to read:

14 (d) Each member of the council shall select one person to serve as
15 a permanent alternate at meetings of the council. If a member of the
16 council is unable to attend, he shall advise the alternate who may
17 attend and act in the place of the member. The alternate for a public
18 member appointed after the effective date of this section under (a)(1)
19 of this section shall, at the time of his designation and throughout the
20 period of his service as a permanent alternate, be the mayor or member
21 of the assembly or council of a municipality within the region from
22 which the permanent member is appointed. The alternate for a designated
23 member serving under (a)(2) of this section shall be a deputy commis-
24 sioner of the department or the director of a division in the department.
25 The names of alternates shall be filed with the council.

26 * Sec. 5. AS 44.19.891(g) is repealed and re-enacted to read:

27 (g) If an incumbent public member ceases to meet the qualifica-
28 tions prescribed in (a)(1) of this section for nomination to the council
29 or if a vacancy exists among the public members for any other reason

1 except for a vacancy due to the expiration of the term of a public
2 member, the governor shall, within 30 days of the establishment of the
3 vacancy by lack of qualification or other reason, make an appointment,
4 to be immediately effective, for the unexpired portion of the term. An
5 appointment by the governor made under this subsection to fill an un-
6 expired term of a public member shall comply with the requirements of
7 (a)(1) of this section; however, the governor may appoint from qualified
8 persons without soliciting from municipalities nominations of persons to
9 fill the unexpired portion of the term.

10 * Sec. 6. Section 1 of this Act is retroactive to June 4, 1977.

11 * Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-
12 070(c).



Appendix 3

The Guidelines & Standards

APPENDIX 3

Note: The original ACMP Guidelines and Standards in this appendix were effective July 18, 1978. The Alaska Coastal Policy Council, on December 15, 1978, adopted changes to these guidelines and standards, which require legislative approval. These changes are also incorporated in this appendix. The changes refer only to sections affected. Brackets with capitalization means deletion of material and underlining means new or revised material. This is a different notation style than used in Chapter 2. It was thought the Chapter 2 style was easier to read, but the Appendix 3 method is the legal style accepted in Alaska, and as these changes are to be submitted to the legislature this upcoming session, this style was used.

AS ADOPTED BY THE ALASKA COASTAL POLICY COUNCIL AND APPROVED
BY THE LEGISLATURE -- JUNE, 1978

Register

GOVERNOR'S OFFICE

6 AAC 80.010

PART 6:
ALASKA COASTAL POLICY COUNCIL.

Chapter

- 80. Standards of the Alaska Coastal Management Program
- 85. Guidelines for District Coastal Management Programs

CHAPTER 80.
STANDARDS OF THE ALASKA COASTAL MANAGEMENT PROGRAM.

Article

- 1. Government Process
- 2. Uses and Activities
- 3. Resources and Habitats
- 4. Areas Which Merit Special Attention
- 5. General Provisions

ARTICLE 1.
GOVERNMENT PROCESS.

Section

- 10. Coverage of chapter
- 20. Public participation and information
- 30. Program management and coordination

6 AAC 80.010. COVERAGE OF CHAPTER. (a) This chapter contains standards for the use of and application by districts and state agencies in carrying out their responsibilities under the Alaska Coastal Management Act (AS 46.40, and AS 44.19.891 -- 44.19.894).

(b) Nothing in this chapter or in any district program displaces or diminishes the authority of any state agency or local government with respect to resources in the coastal area. Uses and activities conducted by state agencies in the coastal area must be consistent with the applicable district program and the standards contained in this chapter. In authorizing uses or activities in the coastal area under its statutory authority, each state agency shall grant authorization if, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency finds that the use or activity is consistent with the applicable district program and the standards contained in this chapter.

(c) At a minimum, the council will review this chapter annually. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

Register

GOVERNOR'S OFFICE

6 AAC 80.020

6 AAC 80.020. PUBLIC PARTICIPATION AND INFORMATION. (a) The council will provide adequate, effective, and continuing opportunities for public participation from the beginning of the Alaska coastal management program. The council will give notice of when and where opportunities for public participation will be provided before adoption of guidelines and standards, review and approval of district programs and amendments to district programs, and amendments to the Alaska coastal management program.

(b) The council will not approve a district program or significant amendment of a district program unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The council will make available to the public information and educational materials concerning coastal management, in understandable form, including

- (1) a guide for the development of district programs;
- (2) maps and narratives describing physical and biological characteristics to be used in establishing boundaries of coastal areas;
- (3) areas recommended for council designation as areas which merit special attention;
- (4) maps showing the distribution and abundance of coastal fish and wildlife species with commercial, recreational, subsistence, or general ecological importance;
- (5) an identification of major data and information sources concerning coastal management;
- (6) a summary of information regarding coastal regions;
- (7) summaries of public hearings and workshops;
- (8) films and slide programs;
- (9) written material summarizing or explaining the Alaska coastal management program; and
- (10) the council's annual report to the legislature.

(d) At public meetings concerning the Alaska coastal management program, the council will insure that, when requested and reasonably necessary, translation into the appropriate Native language is provided. (Eff. Reg.)

Authority: AS 44.19.893
AS 46.40.040

Register

GOVERNOR'S OFFICE

6 AAC 80.030

6 AAC 80.030. PROGRAM MANAGEMENT AND COORDINATION. (a) The Office of Coastal Management is the designated lead agency for the Alaska coastal management program. The Office of Coastal Management shall

(1) present the staff position regarding matters before the council;

(2) coordinate the activities of state agencies participating in the Alaska coastal management program; and

(3) review state and federal actions for consistency with the Alaska coastal management program, subject to council review.

(b) The council will initiate an interagency program of comprehensive resource management for each geographic region listed in AS 44.19.891(a)(1). Regional programs will

(1) assist the council and districts in identifying uses of state concern and developing management policies for these uses;

(2) provide resource, social, and economic information on a coordinated regional basis; and

(3) assist the council and districts in identifying, avoiding, or minimizing existing or potential conflicts.

(c) Plans and recommendations developed as part of the regional program described in (b) of this section must be transmitted to the district through the Office of Coastal Management. District planning efforts must demonstrate review and consideration of these plans and recommendations. If the final district program proposed does not agree with the regional program plans and recommendations, the differences will be resolved by the council.

(d) The council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency programs. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

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GOVERNOR'S OFFICE

6 AAC 80.040

6 AAC 80.050

ARTICLE 2.
USES AND ACTIVITIES.

Section

- 40. Coastal development
- 50. Geophysical hazard areas
- 60. Recreation
- 70. Energy facilities
- 80. Transportation and utilities
- 90. Fish and seafood processing
- 100. Timber harvest and processing
- 110. Mining and mineral processing
- 120. Subsistence

6 AAC 80.040. COASTAL DEVELOPMENT. (a) In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to

- (1) water-dependent uses and activities;
- (2) water-related uses and activities; and
- (3) uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.

(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with Parts 320-323, Title 33, Code of Federal Regulations (Vol. 42 of the Federal Register, pp. 37133--47 (July 19, 1977)). (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.050. GEOPHYSICAL HAZARD AREAS. (a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.

(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

May 4, 1978

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GOVERNOR'S OFFICE

6 AAC 80.060

6 AAC 80.090

6 AAC 80.060. RECREATION. Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are:

(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or

(2) the area has potential for high quality recreational use because of physical, biological, or cultural features.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.070. ENERGY FACILITIES. (a) Sites suitable for the development of major onshore, nearshore, offshore, and outer continental shelf energy facilities must be identified by the state in cooperation with districts.

(b) The siting and approval of major oil and gas facilities must be based on the policies of the State of Alaska concerning the onshore and nearshore aspects of oil and gas development.

(c) Districts shall consider that the uses authorized by the issuance of state leases for mineral and petroleum resource extraction are uses of state concern. District programs and plans must be consistent with those uses.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.080. TRANSPORTATION AND UTILITIES. (a) Transportation and utility routes and facilities in the coastal area must be sited, designed, and constructed so as to be compatible with local community goals and desires as expressed in district programs and local comprehensive plans.

(b) Transportation and utility routes and facilities must be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.090. FISH AND SEAFOOD PROCESSING. Districts shall identify and may designate areas of the coast suitable for the location or development of facilities related to commercial fishing and seafood processing. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

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GOVERNOR'S OFFICE

6 AAC 80.100

6 AAC 80.100. TIMBER HARVEST AND PROCESSING.

Deleted by Legislature

Commercial timber harvest activities in the coastal area must be conducted so as to meet the following standards:

(1) the location of facilities and the layout of logging systems must be managed so as to minimize potential for adverse environmental impacts;

(2) unrestricted fish movement in coastal water must be assured

Deleted by Legislature

(c) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

(1) onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;

(2) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossings, including bridges and culverts, must be kept to a minimum number, designed to withstand seasonal high water and flooding, and must provide for unrestricted passage of fish.

Deleted by Legislature

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GOVERNOR'S OFFICE

6 AAC 80.110
6 AAC 80.120

6 AAC 80.110. MINING AND MINERAL PROCESSING. (a) Mining and mineral processing in the coastal area must be permitted, designed, and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, regional programs, statewide and national needs, district programs, and local comprehensive plans.

(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and prudent alternative to coastal extraction which will meet the public need for the sand or gravel.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.120. SUBSISTENCE. (a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.

(b) Districts shall identify areas in which subsistence is the dominant use of coastal resources.

(c) Districts may, after consultation with appropriate state agencies, Native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence uses and activities have priority over all non-subsistence uses and activities.

(d) Before a potentially conflicting use or activity may be authorized within areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.

(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management.
(Eff. ; Reg.)

Authority: AS 44.19.893
AS 46.40.040

ARTICLE 3. RESOURCES AND HABITATS.

Section

130. Habitats

140. Air, land, and water quality

150. Historic, prehistoric, and archaeological resources

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GOVERNOR'S OFFICE

6 AAC 80.130

6 AAC 80.130 HABITATS. (a) Habitats in the coastal area which are subject to the Alaska coastal management program include

- (1) offshore areas;
- (2) estuaries;
- (3) wetlands and tideflats;
- (4) rocky islands and seacliffs;
- (5) barrier islands and lagoons;
- (6) exposed high energy coasts;
- (7) rivers, streams, and lakes; and
- (8) important upland habitat.

(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.

(c) In addition to the standard contained in (b) of this section, the following standards apply to the management of the following habitats:

(1) offshore areas must be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery;

(2) estuaries must be managed so as to assure adequate water flow, natural circulation patterns, nutrients, and oxygen levels, and avoid the discharge of toxic wastes, silt, and destruction of productive habitat;

(3) wetlands and tideflats must be managed so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;

(4) rocky islands and seacliffs must be managed so as to avoid the harassment of wildlife, destruction of important habitat, and the introduction of competing or destructive species and predators;

(5) barrier islands and lagoons must be managed so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

(6) high energy coasts must be managed by assuring the adequate mix and transport of sediments and nutrients and avoiding redirection of transport processes and wave energy; and

(7) rivers, streams, and lakes must be managed to protect natural vegetation, water quality, important fish or wildlife habitat and natural water flow.

(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency if the following are established:

(1) there is a significant public need for the proposed use or activity;

(2) there is no feasible and prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and

(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.

(e) In applying this section, districts and state agencies may use appropriate expertise, including regional programs referred to in sec. 30(b) of this chapter. (Eff. ; Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.140. AIR, LAND, AND WATER QUALITY. Notwithstanding any other provision of this chapter, the statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the Alaska coastal management program and, as administered by that agency, constitute the components of the coastal management program with respect to those purposes. (Eff. ; Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES. Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory. (Eff. ; Reg.)

Authority: AS 44.14.893
AS 46.40.040

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6 AAC 80.160

ARTICLE 4.
AREAS WHICH MERIT SPECIAL ATTENTION.

Section

160. Areas which merit special attention

6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Districts and appropriate state agencies shall recommend to the council areas to be designated as areas which merit special attention. Recommendations must include the following information:

- (1) the basis or bases for designation under AS 46.40.210(1) or (b) of this section;
- (2) a map showing the geographical location, surface area and where appropriate, bathymetry of the area;
- (3) a description of the area which includes dominant physical and biological features;
- (4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;
- (5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;
- (6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and
- (7) a proposed management scheme, consisting of the following:
 - (A) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;
 - (B) a summary or statement of the policies which will be applied in managing the area; and
 - (C) an identification of the authority which will be used to implement the proposed management scheme.

(b) In addition to the categories contained in AS 46.40 210(1), areas which merit special attention may include the following:

- (1) areas important for subsistence hunting, fishing, food gathering, and foraging;
- (2) areas with special scientific values or opportunities, including those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

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6 AAC 80.160

6 AAC 80.900

(3) potential estuarine or marine sanctuaries.

(c) Management schemes for areas which merit special attention must preserve, protect, enhance, or restore the value or values for which the area was designated...

(d) As used in this section, "areas which merit special attention" has the same meaning as in AS 46.40.210(1).
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

ARTICLE 5. GENERAL PROVISIONS.

Section 900. Definitions

6 AAC 80.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "barrier islands and lagoons" means depositional coastal environments formed by deposits of sediment offshore or coastal remnants which form a barrier of low-lying islands and bars protecting a salt-water lagoon with free exchange of water to the sea;

(2) "coastal water" means all water bodies in the coastal area, including wetlands and the intertidal area;

(3) "council" means the Alaska Coastal Policy Council;

(4) "district" means a coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means a district coastal management program;

(6) "estuary" means a semi-closed coastal body of water which has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(7) "exposed high-energy coasts" means open and unprotected sections of coastline with direct exposure to ocean generated wave impacts and usually characterized by coarse sand, gravel, boulder beaches, and well-mixed coastal water;

(8) "facilities related to commercial fishing and seafood processing" includes hatcheries and related facilities, seafood processing plants and support facilities, marine industrial and commercial facilities, and aquaculture facilities;

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6 AAC 80.900

(9) "geophysical hazards" includes potential flooding, tsunami run-up, landslides, snowslides, severe faults, and ice hazards;

(10) "mining and mineral processing" means the development of mineral resources extracted in tidal rivers, coastal water, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits;

(11) "offshore areas" means submerged lands and waters seaward of the coastline;

(12) "rocky islands and seacliffs" means islands of volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky seafronts;

(13) "tideflats" means mostly unvegetated areas that are alternately exposed and inundated by the falling and rising of the tide;

(14) "transportation and utility routes and facilities" include power transmission lines, mineral slurry lines, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain the route or facility;

(15) "upland" means drainages, aquifers, and land, the use of which would have a direct and significant impact on coastal water;

(16) "uses of state concern" has the same meaning as in AS 46.40.210(6),

(17) "water-dependent" means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body;

(18) "water-related" means a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered;

(19) "wetlands" includes both freshwater and saltwater wetlands; "freshwater wetlands" means those environments characterized by rooted vegetation which is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth; "saltwater wetlands" means those coastal areas along sheltered shorelines characterized by halophytic

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hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally-induced watertable changes.
(Eff. ; Reg.)

Authority: AS 44.19.893
AS 46.40.040

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GOVERNOR'S OFFICE

6 AAC 85.010

6 AAC 85.030

CHAPTER 85.
GUIDELINES FOR DISTRICT COASTAL MANAGEMENT PROGRAMS.

Article

1. Program Elements
2. Government Process
3. General Provisions

ARTICLE 1
PROGRAM ELEMENTS.

Section

10. Coverage of chapter
20. Needs, objectives, and goals
30. Organization
40. Boundaries
50. Resource inventory
60. Resource analysis
70. Subject uses
80. Proper and improper uses
90. Policies
100. Implementation
110. Public participation

6 AAC 85.010. COVERAGE OF CHAPTER. (a) This chapter contains guidelines for the use of and application by districts in carrying out their responsibilities under the Alaska Coastal Management Act (AS 46.40 and AS 44.19.891--894).

(b) At a minimum, the council will review this chapter annually. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.020. NEEDS, OBJECTIVES, AND GOALS. Each district program must include a statement of the district's overall coastal management needs, objectives, or goals, or the district's comprehensive land and resource use plan. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.030. ORGANIZATION. Each district program must include a description of the district program organization for coastal management. Budgetary and staff needs and, where appropriate, a schedule for necessary reorganization must be included. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

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GOVERNOR'S OFFICE

6 AAC 85.040

6 AAC 85.050

6 AAC 85.040. BOUNDARIES. (a) Each district program must include a map of the boundaries of the coastal area within the district subject to the district program.

(b) Before council approval of the district program, initial boundaries must be based on Biophysical Boundaries of Alaska's Coastal Zone (published by the Office of Coastal Management and the Alaska Department of Fish and Game, 1978, a copy of which is on file with the Office of the Lieutenant Governor, and which is available from the Office of Coastal Management) and must include the zone of direct interaction and the zone of direct influence.

(c) Final boundaries of the coastal area subject to the district program may diverge from the initial boundaries if the final boundaries:

(1) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on marine coastal water; and

(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches.

(d) If the criteria in (c) of this section are met, final boundaries of the coastal area subject to the district program may be based on political jurisdiction, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access.

(e) The boundaries of the district must be sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska coastal management program.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.050. RESOURCE INVENTORY. Each district program must include a resource inventory which describes, in a manner sufficient for program development and implementation:

(1) habitats listed in 6 AAC 80.130 that are found within or adjacent to the district;

(2) major cultural resources that are found within or adjacent to the district;

(3) major land and water uses and activities which are conducted within or adjacent to the district;

(4) major land and resource ownership and management responsibilities within or adjacent to the district; and

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6 AAC 85.050
6 AAC 85.080

(5) major historic, prehistoric, and archaeological resources which are found within or adjacent to the district.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.060. RESOURCE ANALYSIS. Each district program must include a resource analysis which describes, in a manner sufficient for program development and implementation:

(1) significant anticipated changes in the matters identified under sec. 50 of this chapter;

(2) an evaluation of the environmental capability and sensitivity of resources and habitats, including cultural resources, for land and water uses and activities; and

(3) an assessment of the present and anticipated needs and demands for coastal habitats and resources. (Eff. Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.070. SUBJECT USES. Each district program must include a description of the land and water uses and activities which are subject to the district program. The uses and activities mentioned in ch. 80 of this title are, if applicable, subject to the district program. (Eff. Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.080. PROPER AND IMPROPER USES. Each district program must include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations. This description must be based on the district's statement of overall needs, objectives, or goals, or the district's comprehensive land and resource use plan, under sec. 20 of this chapter, and must be consistent with the standards contained in ch. 80 of this title. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

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GOVERNOR'S OFFICE

6 AAC 85.090

6 AAC 85.110

6 AAC 85.090. POLICIES. Each district program must include a summary or statement of the policies that will be applied to land and water uses and activities subject to the district program and the process which will be used to determine whether specific proposals for land and water uses and activities will be allowed. It shall be the general policy of the district to approve specific proposals for uses and activities within areas designated for those uses and activities under sec. 80 of this chapter. Districts shall use existing means appropriate for the evaluation of specific proposals to the greatest extent feasible and prudent. Policies and procedures under this section must be consistent with the standards contained in ch. 80 of this title and must meet the following criteria:

(1) comprehensiveness, so as to apply to all uses, activities and areas in need of management;

(2) specificity, so as to allow clear understanding of who will be affected by the district program, how they will be affected, and whether specific proposals for land and water uses and activities will be allowed; and

(3) enforceability, so as to insure implementation of and adherence to the district program. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.100. IMPLEMENTATION. Each district program must include a description of the methods and authority which will be used to implement the district program. Methods and authority must be adequate to insure program implementation, and any additional methods or authority which are required must be specified. Methods and authority include land and water use plans, municipal ordinances and resolutions, (including shoreline, zoning, and subdivision ordinances and building codes), state and federal statutes and regulations, capital improvement programs, the purchase, sale, lease, or exchange of coastal land and water resources, cooperative agreements, tax exemptions for non-development purchase of development rights, memoranda of understanding, and coordinated project or permit review procedures. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.110. PUBLIC PARTICIPATION. Each district program must include evidence of effective and significant opportunities for public participation in program development under sec. 130 of this chapter. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030

ARTICLE 2.
GOVERNMENT PROCESS.

Section

120. Submittals to council

130. Public involvement

140. Coordination and review

150. Council review

6 AAC 85.120. SUBMITTALS TO COUNCIL. (a) During program development, districts shall submit brief annual progress reports concerning program development to the council.

(b) Following adoption of the final program, districts shall submit brief annual progress reports concerning program implementation to the council.

(c) All significant amendments to the district program must be submitted to the council for approval. The Office of Coastal Management shall review proposed amendments to determine if council approval is required. This determination is subject to council review when requested by a council member.

(d) Districts shall give conceptual approval to district programs and significant amendments to district programs before their submission to the council. The district program as approved by the council becomes effective upon adoption by the district. (Eff. , Reg.)

Authority: AS 44.19.893

AS 46.40.030

AS 46.40.040

6 AAC 85.130. PUBLIC INVOLVEMENT. (a) No less than two public meetings must be held within the district during program development to inform the public and receive comments concerning the program. A brief summary or report of the matters considered at the public meeting held under this subsection must be prepared by the district, made available to the public, and retained for inclusion in the record file referred to in sec. 150(c) of this chapter.

(b) At least 30 days before giving conceptual approval to the district program or significant amendment to the district program, the district shall give public notice of the proposed action by conspicuous advertisement in a newspaper of general circulation within the district. The notice must specify the time and place of a public hearing on the proposed action. The public hearing under this subsection may be held not sooner than 10 days after publication of the notice. At the public hearing, each interested person must be given the opportunity to present statements, arguments, or contentions,

Register

GOVERNOR'S OFFICE

6 AAC 85.130

6 AAC 85.150

orally or in writing. Districts shall insure that, where reasonably requested, translation into the appropriate Native language is provided. The district shall consider all relevant matter presented to it. A written transcript or electronic recording of the public hearing must be submitted to the council.

(c) In addition to the requirements of (b) of this section, districts shall provide publicly advertised opportunities for public involvement in the development of all program elements contained in secs. 20 -- 110 of this chapter.

(d) Districts shall provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, what information is available, and where that information may be obtained.

(Eff. , Reg.)

Authority: AS 44.19.893

AS 46.40.030

AS 46.40.040

6 AAC 85.140. COORDINATION AND REVIEW. Districts shall provide opportunities for coordination and review by federal, state, and local governmental agencies, including adjacent districts, and other persons with a significant interest in coastal resources or who are conducting or may conduct uses and activities that have or are likely to have a direct and significant impact on the district's coastal area.

(Eff. , Reg.)

Authority: AS 44.19.893

AS 46.40.030

AS 46.40.040

6 AAC 85.150. COUNCIL REVIEW. (a) When a district program or significant amendment of a district program is given conceptual approval by the district, the program or amendment, together with the transcript or recording of the public hearing held under sec. 130(b) of this chapter and all other material on which the district based its decision, must be submitted to the council.

(b) Within 30 days after submission of the district program or amendment under (a) of this section, the Office of Coastal Management shall issue its recommendation. The recommendation may be based, in whole or in part, on matters not submitted by the district under (a) of this section. Any matters so used must be identified in the recommendation and placed in the record file under (c) of this section. The recommendation must contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. The recommendations must be served on the

t, the council, and all persons who testified or had timely written statements at the public hearing held under sec. 130(b) of this chapter.

(c) A record file containing all matter submitted by the district under (a) of this section, the Office of Coastal Management's recommendation under (b) of this section, and all matters on which the recommendation was based must be maintained at the Office of Coastal Management and at a convenient location within the district.

(d) Within 30 days after service of the recommendation, any person served with the recommendation may serve upon the council comments on the recommendation. Within 10 days after the deadline for serving comments on the council under this subsection, the Office of Coastal Management may submit additional matter to the council in response to the comments. All comments served and all additional matter submitted under this subsection will be placed in the record file.

(e) Within 20 days after the deadline for the Office of Coastal Management's submission of additional matter to the council under (d) of this section, the council will approve or disapprove the district program, in whole or in part. The council's decision will contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. The council's findings and conclusions will be based upon matters contained in the record file. The council will, in its discretion, adopt the findings and conclusions of the Office of Coastal Management by reference. The council will serve its decision under this subsection on the district and on all persons who submitted timely comments on the staff recommendation under (d) of this section, and will place the decision in the record file.

(f) If the council's decision under (e) of this section disapproves, in whole or in part, the district program, the decision will specify the date and location for the initial mediation session under AS 46.40.060(b). Mediation sessions will be held within the district and will be scheduled with due regard for the convenience of the participants. Any person served with the council's decision under (e) of this section may attend mediation sessions.

(g) If the council and district reach accord in mediation sessions held under (f) of this section, the council will, within 20 days after reaching accord, serve its modified decision on the district and all persons who were served with the council's decision under (e) of this section, and will place the modified decision in the record file. The modified decision will contain findings and conclusions, based on the record file and additional matters adduced during mediation, necessary to demonstrate that the modified decision does not violate this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, or AS 46.40.070.

6 AAC 80.040(b), COASTAL DEVELOPMENT, is amended to read:

(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with the standards contained in Parts 320-323, Title 33, Code of Federal Regulations, (Vol. 42 of the Federal Register, pp. 37133--47 (July 19, 1977)).

6 AAC 80.060, RECREATION, is amended by adding a new subsection to read:

(b) Districts and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal waters.

6 AAC 80.070, ENERGY FACILITIES, is amended to read:

(a) Sites suitable for the development of major (ONSHORE, NEARSHORE, OFFSHORE, AND OUTER CONTINENTAL SHELF) energy facilities must be identified by districts and the state in cooperation with districts.

(b) The siting and approval of major energy facilities (OIL AND GAS FACILITIES) by districts and state agencies must be based, to the extent feasible and prudent, on the following standards: (POLICIES

OF THE STATE OF ALASKA CONCERNING THE ONSHORE AND
NEARSHORE ASPECTS OF OIL AND GAS DEVELOPMENT.)

(1) site facilities so as to minimize
adverse environmental and social effects while satis-
fying industrial requirements;

(2) site facilities so as to be compatible
with existing and subsequent adjacent uses and projected
community needs;

(3) consolidate facilities;

(4) consider the concurrent use of facili-
ties for public or economic reasons;

(5) seek to cooperate with landowners,
developers, and federal agencies in the development of
facilities;

(6) select sites with sufficient acreage to
allow for reasonable expansion of facilities;

(7) site facilities where existing infra-
structure, including roads, docks, and airstrips, is

capable of satisfying industrial requirements;

(8) select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;

(9) encourage the use of vessel traffic control and collision avoidance systems;

(10) select sites where development will require minimal site clearing, dredging and construction in productive habitats;

(11) site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries and hauling out grounds and waterfowl nesting areas;

(12) site facilities so that the construction of facilities and support infrastructures in coastal areas of Alaska are designed to allow for the free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;

(13) site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;

(14) site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;

(15) select sites designated for industrial purposes and where industrial traffic is minimized through population centers; and

(16) select sites where vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(c) Districts shall consider that the uses authorized by the issuance of state and federal leases for mineral and petroleum resource extraction are uses of state concern. (DISTRICT PROGRAMS AND PLANS MUST BE CONSISTENT WITH THOSE USES.)

6 AAC 80.080(a), TRANSPORTATION AND UTILITIES, is

amended to read:

(a) Transportation and utility routes and facilities in the coastal area must be sited, designed, and constructed so as to be compatible with (LOCAL COMMUNITY GOALS AND DESIRES AS EXPRESSED IN) district programs (AND LOCAL COMPREHENSIVE PLANS).

6 AAC 80.100, TIMBER HARVEST AND PROCESSING, is amended to read:

(a)((b)) Commercial timber harvest activities in the coastal area must be conducted so as to meet the following standards:

(1) the location of facilities and the layout of logging systems must be sited (MANAGED) so as to minimize (POTENTIAL FOR) adverse environmental impacts;

(2) free passage and movement of fish (UNRESTRICTED FISH MOVEMENT) in coastal water must be assured; and

(3) timber harvest and timber management activities must be planned so as to protect stream-banks and shorelines, prevent adverse impacts on fish

resources and habitats, and minimize adverse impacts
on wildlife resources and habitats.

(b) ((c)) Commercial timber transport, storage,
and processing in the coastal area must be conducted
so as to meet the following standards:

(1) onshore storage of logs must be encouraged where compatible with the objectives of the Alaska Coastal Management Program;

(2) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage patterns (put-to-bed); and

(4) stream crossings, including bridges and culverts, must be kept to a minimum number, designed to withstand seasonal high water and flooding, and must provide for free passage and movement (UNRESTRICTED PASSAGE) of fish.

6 AAC 80.110(a), MINING AND MINERAL PROCESSING, is amended to read:

(a) Mining and mineral processing in the coastal area must be regulated (PERMITTED), designed, and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, (REGIONAL PROGRAMS,) statewide and national needs, and district programs (,AND LOCAL COMPREHENSIVE PLANS).

6 AAC 80.160(a), AREAS WHICH MERIT SPECIAL ATTENTION, is amended to read:

(a) Any person may recommend to a district or to the council areas to be designated as areas which merit special attention. Districts shall designate in district programs areas which merit special attention. Areas which are not in districts and which merit special attention shall be designated by the council with the concurrence of appropriate state

agencies, municipalities, and villages affected by the designation. (DISTRICTS AND APPROPRIATE STATE AGENCIES SHALL RECOMMEND TO THE COUNCIL AREAS TO BE DESIGNATED AS AREAS WHICH MERIT SPECIAL ATTENTION.)

Designations (RECOMMENDATIONS) must include the following information:

(1) the basis or bases for designation under AS 46.40.210(1) or (b) of this section;

(2) a map showing the geographical location, surface area and where appropriate, bathymetry of the area;

(3) a description of the area which includes dominant physical and biological features;

(4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;

(5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;

(6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and

(7) a proposed management scheme, consisting of the following:

(a) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;

(b) a summary or statement of the policies which will be applied in managing the area; and

(c) an identification of the authority which will be used to implement the proposed management scheme.

6 AAC 80.900. DEFINITIONS, is amended by adding new subsections to read:

6 AAC 80.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(9) "feasible and prudent" means consistent with sound engineering practice and not causing environmental, social, or economic problems . t outweigh the public benefit to be derived from compliance with the standard which is modified by the term "feasible and prudent";

(11) "including" means including but not limited to;

(12) "major energy facility" means a development of more than local concern carried out in, or in close proximity to, the coastal area, which meets one or more of the following criteria:

(1) a facility required to support energy operations for exploration or production purposes;

(2) a facility used to produce, convert, process, or store energy resources or marketable products;

(3) a facility used to transfer, transport, import, or export energy resources or marketable products;

(4) a facility used for in state energy use; or

(5) a facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in (1)-(4) of this section.

Major energy facilities include marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals and other port development for the transfer of energy products, petrochemical plants, refineries

and associated facilities, hydroelectric projects, other electric generating plants, transmission lines, uranium enrichment or nuclear fuel processing facilities, and geothermal facilities.

6 AA 80.900(9). GEOPHYSICAL HAZARDS, is repealed and reenacted to read:

(10) "geophysical hazard areas" means those areas which present a threat to life or property from geophysical or geological hazards, including flooding, tsunami run-up, storm surge run-up, landslides, snowslides, faults, ice hazards, erosion, and littoral beach process.

6 AAC 85.040(a). BOUNDARIES, is amended to read:

(a) Each district must include a map of the boundaries of the coastal area within the district subject to the district program. Boundaries shall enclose those lands which would reasonably be included in the coastal area and subject to the district program if they were not subject to the exclusive jurisdiction of the federal government.

6 AAC 85.130(b). PUBLIC INVOLVEMENT, is amended to read:

(b) At least 60 (30) days before giving conceptual approval to the district program or significant amendment to the district program, the district shall give written notice to the council and any person who has requested such notice in writing and public notice of the proposed action by conspicuous advertisement in a newspaper of general circulation within the district. In addition, notice shall be given by radio and by posting in villages and municipalities within the district. The notice must specify the time and place of a public hearing on the proposed action and the availability for review of the proposed district program document or

significant amendment to the district program. The public hearing under this subsection may be held not sooner than 30 (10) days after notice is given (PUBLICATION OF THE NOTICE). At the public hearing, each (INTERESTED) person must be given the opportunity to present statements, arguments, or contentions, orally or in writing. District shall insure that, where appropriate, (WHERE REASONABLY REQUESTED) translation into the appropriate Native language(s) (LANGUAGE) is provided. The district shall consider all relevant matter presented to it. A written transcript or electronic recording of the public hearing must be submitted to the council.

6 AAC 85.150, COUNCIL REVIEW, is amended to read:

(a) no changes

(b) Within 30 days after submission of the district program or amendment under (a) of this section, the Office of Coastal Management shall issue its recommendation. The recommendation may be based, in whole or in part, on matters not submitted by the district under (a) of this section. Any matters so used must be identified in the recommendation and placed in the record file under (c) of this section. The recommendation must contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. The recommendation must be served on the district, the council, (AND) all persons who testified or submitted timely written statements at the public hearing held under sec. 130(b) of this chapter, and all persons who have requested such recommendation in writing. Broad public notice of the recommendation shall be given.

(c) no changes

(d) Within 30 days after service of the recommendation, any person served with the recommendation may serve on the council comments on the recommendation. Within 30 days after public notice of the recommendation, any other person may serve on the council comments on the recommendation. Within 10 days after the deadline for serving comments on the council under this subsection, the Office of Coastal Management may submit additional matter to the council in response to the comments. All comments served and all additional matter submitted under this subsection will be placed in the record file. The Office of Coastal Management shall respond to all comments within 30 days of receipt.

(e) no changes

(f) If the Council's decision under (e) of this section disapproves, in whole or in part, the district program, the decision will specify the date and location for the initial mediation session under AS 46.40.060(b). Mediation sessions will be held with due regard for the convenience of the participants. Any person (SERVED WITH THE COUNCIL'S DECISION UNDER (e) OF THIS SECTION) may attend mediation sessions.

6 AAC 85.900, DEFINITIONS, is amended by adding new subsections to read:

6 AAC 85.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(6) "feasible and prudent" has the same meaning as that contained in 6 AAC 80.900(9);

(7) "including" has the same meaning as that contained in 6 AAC 80.900(11).



Appendix 4

**House Concurrent
Resolution No. 125**

Original sponsor: Community and Regional
Affairs Committee

Offered: 5/25/78
Referred: Rules

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE CONCURRENT RESOLUTION NO. 125 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 Approving regulations adopted by the
6 Alaska Coastal Policy Council.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS Chapter 84, Session Laws of Alaska 1977, established the Alaska
9 Coastal Policy Council and charged the council with the responsibility, among
10 others, of adopting guidelines and standards for the development of the dis-
11 trict and the statewide coastal management programs; and

12 WHEREAS the Alaska Coastal Policy Council has adopted guidelines and
13 standards in 6 AAC 80 and 6 AAC 85 for use by state agencies and by munici-
14 palities and service areas in the preparation and development of the district
15 and statewide coastal management programs; and

16 WHEREAS the guidelines and standards approved and adopted by the Alaska
17 Coastal Policy Council are generally consistent with the objectives for the
18 state coastal management program identified in AS 46.40.020 and are the first
19 part of the statewide district coastal management program; and

20 WHEREAS AS 46.40.080 requires approval of the state coastal management
21 program either by adoption of a concurrent resolution or by majority vote of
22 the members of both houses at a joint legislative session as a prerequisite
23 to the taking effect of the program; and

24 WHEREAS, in accordance with the statute, the Alaska Coastal Policy
25 Council has submitted its final guidelines and standards for legislative
26 approval; and

27 WHEREAS, after opportunity for public hearing, the legislature finds
28 that certain provisions of 6 AAC 80.100, adopted by the council to establish
29 requirements for timber harvesting and processing in coastal areas are con-

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1 fusing in language and intent, over broad in effect, and potentially detri-
2 mental to the development of timber harvest and processing in coastal por-
3 tions of the state; and

4 WHEREAS, notwithstanding the shortcomings of these provisions, inclusion
5 of requirements regulating commercial timber harvest in coastal areas is a
6 requirement both to guide the preparation of coastal management programs by
7 coastal resource districts and to gain federal program approval, financial
8 support, and consistency;

9 BE IT RESOLVED that the Alaska State Legislature approves the regula-
10 tions adopted by the Alaska Coastal Policy Council on March 31, 1978, and
11 filed with the lieutenant governor on May 9, 1978, except that the following
12 subsections and paragraphs of administrative regulations presented by the
13 Alaska Coastal Policy Council are not approved: 6 AAC 80.100(a); 6 AAC 80.-
14 100(b)(3); 6 AAC 80.100(c)(2) and (4); and 6 AAC 80.100(d).



Appendix 5

The Internal Guidelines

INTERNAL GUIDELINES OF THE ALASKA COASTAL POLICY COUNCIL

Council Operations

(1) If a public member of the Council ceases to be a mayor, member of the assembly or council of a municipality, the Council shall recommend to the Governor the removal of that member from the Council and the declaration of a vacancy. Public members whose removal is recommended under this guideline shall serve until a replacement is appointed.

(2) Public members appointed to fill vacancies may be reappointed.

(3) The names of permanent alternates selected by members of the Council shall be submitted in writing to the Council.

(4) Per diem and travel for Council members and their alternates shall be provided from the Alaska coastal management program.

(5) The Council shall receive financial support from the Alaska coastal management program budget and from such other sources as become available.

(6) The Coordinator of the Office of Coastal Management shall be responsible for and have charge of Council records.

(7) Additional staff support to the Council shall be available from the Commissioner of the Department of Community and Regional Affairs as prescribed in the Alaska Coastal Management Act.

(8) All meetings of the Council, except for executive sessions conducted solely for personnel matters, shall be open to the public and the press. Public meetings shall be electronically recorded, where possible, and the record shall be made available to any interested party.

(9) Minutes of all public meetings of the Council shall be kept. All relevant areas of business and decisions of the Council shall be recorded in the minutes. Minutes shall be made available through the Office of Coastal Management.

(10) The Coordinator of the Office of Coastal Management shall present the official staff position regarding matters appearing before the Council. Each Council member or participant in the Alaska Coastal Management Program may, at the discretion of the Council, present his or her position on such matters to the Council.

(11) Each public member of the Council shall, to the extent practicable, keep the public within the region that member represents fully informed of all relevant matters concerning the Alaska Coastal Policy Council and Alaska Coastal Management Program.

Federal Agency Consultation and Coordination

(1) All participants in the Alaska Coastal Management Program, including coastal resource districts, state agencies, the Council, and Council staff, shall provide opportunities for federal agencies to participate in the Alaska Coastal Management Program, including furnishing timely notice of relevant action to federal agencies, and solicitation of federal agencies' comment, review, and contribution, where appropriate.

(2) The Council and its staff shall provide information concerning relevant federal agencies and programs to participants in the Alaska Coastal Management Program generally and as requested.

(3) The Council may, in its discretion, mediate or otherwise seek to resolve conflicts between federal agencies and participants in the Alaska Coastal Management Program.

(4) The Office of Coastal Management shall be the single designated state agency for all purposes of sections 305, 306, and 307 of the federal Coastal Zone Management Act.

(5) The Council shall establish procedures for the implementation of the federal consistency requirements of the federal Coastal Zone Management Act.



Appendix 6

Administrative Order

ADMINISTRATIVE ORDER No. ____ (Draft 7, 12/19/78)

FOR THE MANAGEMENT SYSTEM TO
IMPLEMENT THE
ALASKA COASTAL MANAGEMENT PROGRAM

Findings:

1. In 1977, the Alaska Legislature enacted the Alaska Coastal Management Act (AS 46.40) to provide for coordinated planning for the rational use of the coastal resources of the state. (AS 46.40.020);

2. A primary purpose of the Act is to avoid the creation of new regulatory structures wherever possible, relying instead upon existing state and local authorities to implement the provisions of the Act. Accordingly, AS 46.40.040(1) provides that the Alaska Coastal Policy Council shall develop guidelines and standards "for the use of and application by" local governments and state agencies;

3. In establishing the Alaska Coastal Policy Council, the legislature recognized that there is both a local and state interest in coastal management and provided representation on the Council for officials of local governments and seven state agencies. Six state agencies in particular were deemed to have primary land and water use responsibilities in the coastal area--the Departments of Commerce and Economic Development, Community and Regional Affairs, Environmental Conservation, Fish and Game, Natural Resources, and Transportation and Public Facilities. Further, the legislature recognized that a seventh--Division of Policy Development and Planning--had a critical coordination responsibility. (AS 44.19.891.(a)(2)(B)-(G))

4. On March 31, 1978, the Alaska Coastal Policy Council adopted the Alaska Coastal Management Program (ACMP) Guidelines and Standards for land and water use activities in the coastal area. A general provision in the standards requires that each state agency reviewing or considering a coastal land or water use or activity under its jurisdiction shall determine and assure that the use or activity is consistent with the ACMP Guidelines and Standards (6 AAC 80.010(b));

5. On June 18, 1978, House Concurrent Resolution No. 125, approving the ACMP Guidelines and Standards, was passed by the legislature, and the guidelines and standards took effect on July 18, 1978;

6. Because of the provisions of the Alaska Coastal Management Act, each state agency is responsible for administering land and water use regulations and controls in conformity with both the ACMP Guidelines and Standards, and, as required in AS 46.40.100, also in conformity with

the coastal programs of local governments and coastal resource service areas which have been approved and are in effect;

7. Each state agency is responsible for insuring the implementation of the Alaska Coastal Management Program, and for determining whether there exists any impediment within the agency's statutes, regulations or procedures to the carrying out of that responsibility (AS 46.40.200). It must be recognized that in complying with this obligation, state agencies must first determine whether impediments exist for the carrying out of the ACMP Guidelines and Standards and then do so again for each subsequent local coastal program which takes effect;

8. In light of the purposes of the Alaska Coastal Management Act, it is of vital importance that the regulations and local coastal programs adopted by the Council are uniformly and coherently applied by state agencies making and reviewing coastal land and water use decisions, while at the same time making maximum use of existing expertise within each state agency, and avoiding time delays in evaluation of, and agency action upon, proposals for coastal land and water uses;

9. Upon approval of the Alaska Coastal Management Program under section 306 of the federal Coastal Zone Management Act, it will be necessary to review federal projects and permit and license applications for consistency with the Alaska Coastal Management Program under section 307 of the federal Act. The state must designate a single agency for making these determinations;

10. The Office of Coastal Management in the Division of Policy Development and Planning (DPDP hereafter) has been designated the lead agency for the Alaska Coastal Management Program and is charged with reviewing state and federal actions for consistency with the program (6 AAC 80.030(a)).

Order:

In light of the foregoing, I JAY S. HAMMOND, Governor of the State of Alaska, order and declare the following:

1. The foregoing cited responsibilities and obligations require the establishment of a system and procedures to assure uniform, coherent and aggressive implementation of the Alaska Coastal Management Program, and further delineation of responsibility among the state agencies. Toward this end, this order creates and formalizes the ACMP management system;

2. Every state agency shall comply with applicable provisions of this order;

3. Each state agency represented on the Alaska Coastal Policy

Council pursuant to AS 44.19.89.(b)-(g) (hereinafter "primary agency") shall, on or before June 30, 1979, prepare a written report describing how that agency shall carry out its responsibilities under this Order, 6 AAC 80.010(b), and AS 46.40.200. The report shall include existing or proposed procedures, regulations, and other material deemed necessary by the agency, and shall detail the coastal land and water uses and activities subject to that agency's authority, for which it will determine consistency with ACMP. The report shall also show how the agency plans to provide public comment opportunities in consistency determinations. The agency shall forward a copy of the report to the Division of Policy Development and Planning (DPDP), which in turn will attempt to assure that the reports are consistent.

4. Within 30 days of the execution of this order, each primary agency shall designate a coastal management liaison who will be responsible for assuring that the provisions of this order, the statutory and regulatory provisions of Alaska Coastal Management Program applicable to the agency, and any procedures and/or regulations developed and adopted by the agency pursuant to this order, are being actively implemented by the agency, and further, to be responsible for facilitating communication between the agency and districts and other agencies.

5. In accordance with 6 AAC 80.010, each state agency, in authorizing--by permit, license or other approval--any use or activity in the coastal area, shall grant the permit, license or other approval if, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency finds that the use or activity is consistent with the standards contained in 6 AAC 80 and with approved local coastal programs. The provisions of this paragraph apply to any permit, license or other approval for which application is made after July 18, 1978, and which is for a use or activity located or to be located between the seaward limit of the United States territorial sea and the landward boundary of the zone of direct influence as shown on the ACMP initial boundary maps, or the landward boundary of any applicable district program.

6. Upon the execution of this order, each state agency shall review each pending major land or water use project in the coastal area being conducted, or wholly or partially financed, by that agency, to determine whether the project complies with the standards contained in 6 AAC 80 and approved district coastal programs. Agencies shall include lists of such activities in the reports provided for in paragraph 3 above. A project is considered "major" if it is likely to significantly affect land or water resources in the coastal area. The agency should consult applicable precedent under the National Environmental Policy Act (42 U.S.C. 4321 et. seq.) for guidance in this regard. All uncompleted projects are considered "pending" unless they have advanced beyond the conceptual stage and have been funded or approved by the legislature. After execution of this order, no state agency may make any fiscal or other resource commitment to (a) any pending major project, or (b) any

major project initiated after execution of this order, unless the agency determines that the project is consistent with the standards contained in 6 AAC 80 and with approved district coastal programs.

7. Within one year of the execution of this order, each state agency shall review all capital or development plans of that agency which may affect land or water use in the coastal area, and make any changes in those plans that may be necessary to insure their consistency with the standards contained in 6 AAC 80 and with approved district coastal programs. Upon a determination under this paragraph that the plan is consistent with the standards contained in 6 AAC 80 and with approved district coastal programs, projects specified as to their nature and location in the plan need not be approved under paragraph 6 of this order, unless significant changes in the project are made prior to its execution.

8. Each primary agency shall, within 6 months of the effective date of each district coastal management program, prepare supplementary reports to the initial report required under paragraph 3 of this order, showing agency actions necessary to assure full implementation of the district program. Reports must be reviewed by the district prior to finalization. A copy of each supplementary report shall be forwarded to DPDP.

9. While, in most cases, consistency determinations can be most efficiently and properly made by the primary agencies responsible for them, there may be certain occasions when an agency concludes that it cannot properly make such a determination. In such cases, the agency may ask DPDP to make the consistency determination. When making such a request, the agency shall promptly transmit the application for a permit, license or other approval to DPDP for review. In the report required in paragraph 3 of this order, an agency may stipulate certain coastal land and water uses and activities on which it will routinely ask DPDP to make the consistency determination. The agency shall provide reasonable time limits for DPDP's review, after which consistency shall be presumed in order to meet applicable review deadlines.

10. Should a dispute arise between or among state agencies, or between or among state agencies and DPDP, as to any matter relevant to consistency with the provisions of 6 AAC 80, the matter will be resolved by the Coastal Policy Council, if time permits. If, however, regulatory or statutory deadlines require resolution sooner than may be provided by the Coastal Policy Council, I shall resolve the matter.

11. DPDP will be the responsible agency for all matters related to the federal consistency provisions of section 307 of the federal Act. DPDP shall utilize appropriate expertise of other state agencies, and the views of local governments, in discharging its responsibilities under this paragraph. The A-95 Clearinghouse will be used to process federal consistency matters concerning federal developments (307(c)(1)), (307(c)(3)(A)), plans for the exploration or development of areas leased under the Outer Continental Shelf Lands Act (307(c)(3)(B)), and applications for federal assistance (307(d)). Standard clearinghouse procedures will be used to coordinate the review for each of these types of consistency matters.

12. In making consistency determinations state agencies and DPDP shall consult with affected local governments, federal agencies, and other state agencies, and shall accord great weight to their views within their areas of expertise.

13. Nothing in this order may be construed as authorizing and state agency to defer action on any application for a permit, license or other approval beyond the time period otherwise provided by law.

14. In carrying out their obligations under the Alaska Coastal Management Act and the ACMP Guidelines and Standards, state agencies shall assure that uses of state concern, as defined in AS 46.40.210 (6) and as may be later defined by the Council, are given full consideration. State agencies must participate in the development and review of district coastal programs so that the districts will be made aware of potential exclusions or restrictions of uses of state concern that might be caused by proposed provisions of district programs. Further, in carrying out their regulatory and proprietary functions related to ACMP, state agencies will avoid arbitrary or unreasonable exclusions of uses of state concern which might be caused by their own actions. If it should appear to an agency that a pending action might result in an exclusion or restriction of a use of state concern, then it must carry out the consultation and analysis required of local governments in AS 46.40.070.(c). That is, the agency must consult with other agencies and parties that might be affected by the matter, determine that alternative sites for the use do exist, and show that the proposed use is incompatible with the proposed site. Reports of such consultation and analysis must be available to the public.

15. State agencies shall attempt to involve the public in decisions which affect coastal resources by providing adequate notice of proposed agency actions. Where the activity for which a state permit, license, or other approval is requested would have significant impacts on coastal resources, the agency must provide notice of the application to affected state agencies, local governments, and other persons likely to be interested well in advance of taking final action. Where the activity for which state authorization is requested would have only insignificant effects on coastal resources, notice after the action is taken must be provided to affected local governments and state agencies. Affected local governments shall be notified well in advance of any pending agency action that would deviate from local zoning regulations or approved district program provisions. Notice well in advance of a proposed final action should, to the extent permitted by applicable statutes and regulations, be given no later than thirty days before the date for which final action is proposed. Such notice should be given by the means most likely to reach the agencies, local governments, and other persons likely to be interested in the proposed activity, including direct mailings, posting in public places, advertisements in newspapers of general circulation, and radio or television announcements.

16. If any person, state agency, federal agency, or local government feels that a state agency is not making consistency determinations

in accord with the provisions of the Alaska Coastal Management Program and this order, he shall submit to DPDP a written statement detailing the grounds for the complaint. DPDP shall review the statement and, if it appears that the complaint has merit, shall attempt to resolve the matter with the agency within 30 days of receipt of the statement. If resolutions by this mean fails, DPDP shall bring the matter to the attention of the Coastal Policy Council, or to me if the matter is outside Council jurisdiction.

17. Until applicable district coastal program boundaries are established, the boundaries delineated by 6 AAC 85.040(b) shall be the interim boundary for purposes of this order. Boundaries of approved district programs will be used by state agencies.



Appendix 7

Energy Facilities Planning Process

I. FEDERAL REQUIREMENTS

The Coastal Zone Management Act of 1972, as amended in 1976, requires that states develop a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities. (Section 305(b)(8)) To implement this section of the law, federal regulations require coastal states to pay special attention to energy facility siting and to address the following procedural elements:

- (a) Identification of energy facilities which are likely to locate in, or which may significantly affect, a state's coastal zone;
- (b) Procedures for assessing the suitability of sites for such facilities;
- (c) Articulation of state policies for managing energy facilities and their impacts, including a clear articulation of policies regarding conditions that may be imposed on site location and facility development;
- (d) Identification of how interested and affected public and private parties may be involved in the planning process, and a discussion of the means for continued consideration of the national interest in the planning for and siting of energy facilities that are necessary to meet more than local requirements, after program approval; and
- (e) Identification of legal authorities and management techniques that will be used to implement state policies and procedures.

II. BACKGROUND AND ALASKA STATUTORY PROVISIONS

The prospect of nine offshore lease sales in three years, including a joint federal/state sale in the Beaufort Sea, and the possibility of major energy facilities locating along Alaska's coast, captured much attention during the formative stages of Alaska's coastal program and focused a large segment of the work accomplished on the siting of energy-related facilities and the mitigation of significant impacts. Prior to passage of the Alaska Coastal Management Act, the commissioner-level Coastal Management Policy Committee met regularly and designated the Department of Community and Regional Affairs to develop, in concert with all levels of government and the petroleum industry itself, a workable planning process for energy facility siting. The objective was to build a unified state position which recognized both the national interest and the state's desire to manage onshore and nearshore activities associated with energy development.

To accomplish one half of this objective, the state incorporated national objectives for energy self-sufficiency into its oil and gas leasing program for state-owned lands. The Alaska Division of Minerals and Energy Management of the Department of Natural Resources has since announced a five-year leasing schedule which calls for sales as follows:

- o During 1978, the state will adjudicate all pending simultaneous filings and over-the-counter offerings by June. In addition, a limited acreage sale is scheduled for the very high potential Harrison Bay area on the North Slope by October.
- o During 1979, the Department will offer limited acreage as requested by industry and Native corporations in the Copper River Basin in April, and limited acreage tracts in presently leased areas in Cook Inlet and the Susitna Valley in July. In December of 1979, the already-announced joint state-federal sale in the Beaufort Sea will occur. This is the area most highly favored by industry in the state.
- o During 1981, the state has planned a limited acreage sale in the area to be selected in April and a major sale in upper Cook Inlet onshore in November.
- o During 1981, the state has scheduled a major sale in the Prudhoe Bay area, and a joint sale with the federal government in certain limited offshore areas in lower Cook Inlet.
- o Finally, in 1982, the state has planned a second sale in the Beaufort Sea in the offshore area, and another sale in low potential or limited acreage yet to be selected.

The other half of the objective to manage onshore and nearshore activities associated with energy development is recognized in the Alaska Coastal Management Act of 1977 which directs the Coastal Policy Council to:

"initiate a process for identifying and managing uses of state concern within specific areas of the coast" (AS 46.40.040(4)).

As defined in the Act, "uses of state concern" include:

"uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs (and) the siting of major energy facilities....which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or surrounding area, are reasonably likely to present issues of more than local significance" (AS 46.40.210(6)).

The uses so defined, the standards and guidelines of the Alaska Coastal Management Program require the state in cooperation with coastal districts to identify sites suitable for major energy facilities and to approve actual siting decisions on the basis of standards concerning the onshore and nearshore aspects of energy activity (6 AAC 80.070(b)).

III. DEFINITION AND IDENTIFICATION OF ENERGY FACILITIES LIKELY TO AFFECT THE COASTAL AREA

The Alaska Coastal Policy Council has approved the following criteria for identifying major energy facilities which are likely to locate in, or which may significantly affect, the coastal area:

- (a) a facility required to support energy operations for exploration or production purposes;
- (b) a facility used to produce, convert, process, or store energy resources or marketable products;
- (c) a facility used to transfer, transport, import, or export energy resources or marketable products;
- (d) a facility used for in state energy use;
- (e) a facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in (a)-(d).

Major energy facilities were further defined as including, but not limited to:

marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals and other port development for the transfer of energy products, petrochemical plants, refineries and associated facilities, hydroelectric projects, other electric generating plants, transmission lines, uranium enrichment or nuclear fuel processing facilities, and geothermal facilities.

IV. ENERGY FACILITY PLANNING PROCESS

Alaska's energy facility planning process is central to its coastal management. Energy facility planning and management is shared by local and state governments. The basic steps of this process are outlined in the following discussion.

Site Selection

Sites suitable for the development of major energy facilities must be identified by districts and the state in cooperation with the districts (6 AAC 80.070). In organized areas, district coastal programs will be developed. The program development process will result in the identification of sites for major energy facilities. In unorganized areas, district programs will be developed upon organization of coastal resource service areas. These may be organized where major economic activity in the area is likely, among other reasons. Such activity may include a call for nominations for oil and gas development in adjacent waters, or development of major energy facilities. In these areas, a district program will be developed which identifies sites suitable for major energy facilities.

The district program development process involves inventories of lands and waters, uses, assessments of the capability of the lands and waters to support uses, identifications of proper and improper uses and policies for land and water areas and uses.

The state's role in identifying sites suitable for development of energy facilities is likely to be more significant in unorganized areas than in organized areas. In cooperation with local governments, the state is prescreening potential energy facility sites at the present time.

Designation

Once sites suitable for energy facilities are identified, districts may decide to designate those sites for those uses. If identified sites are designated, it must be the general policy of the district to approve specific proposals for uses and activities within areas designated for those uses (6 AAC 85.090). In deciding whether or not energy facilities will be considered proper or improper uses of their coastal areas, districts are bound not to arbitrarily or unreasonably exclude "uses of state concern." These are defined to include the siting of major energy facilities (AS 46.40.210(6)), and all activities authorized by the issuance of a state or federal lease for mineral and petroleum resource extraction (6 AAC 80.070(c)). At the present time, state agencies are identifying "uses of state concern" within specific geographic regions of Alaska.

Once sites suitable for energy facilities are identified, they may be designated as "areas meriting special attention" if uses of the areas are dependent upon utilization of, or access to coastal waters (AS 46.40.210 (1)(D)). Anyone can recommend designation of such an area. The recommendation must be accompanied by a special management program for the area and for the uses of the area, including policies. AMSAs will be designated by districts in their programs in organized areas and in unorganized areas by the Alaska Coastal Policy Council, provided the concurrence of state agencies, municipalities and villages affected by the designation is obtained. This process is appropriate for areas of extraordinary value which require special management attention.

Siting and Approval

The siting and approval of major energy facilities by districts and the state must be based on the standards which are discussed in the following section. The State intends to assess the demand for future energy facilities, and to prescreen potential sites in advance of siting decisions to determine whether they are capable of serving the national interest and other needs, suitable in terms of existing laws and state and local policies, and available for development.

Alaska does not at the present time have a formal energy facility siting and approval certification process, but the Office of the Governor is evaluating alternative approaches for reviewing major projects. It is anticipated that the process which is finally selected will be effectuated through an administrative order. At the present, major projects such as energy facilities are evaluated by specially designated task forces coordinated by the Division of Policy Development and Planning in the Office of the Governor.

V. STANDARDS AND IMPLEMENTATION MECHANISMS FOR SITING AND APPROVAL OF ENERGY FACILITIES

The standards which are described in this section have been approved by the Alaska Coastal Policy Council and submitted to the legislature for approval. Once approved, they will constitute the rules of Alaska for the nearshore and onshore aspects of energy development and will provide direction for all energy facility siting decisions.

ENERGY FACILITY PLANNING....GENERAL GUIDELINES

- (1) Optimum Location. Site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements (6 AAC 80.070(b)(1)).
- (2) Compatibility. Site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs (6 AAC 80.070(b)(2)).

Discussion

In small coastal communities, where growth has been slow and fish processing plants maybe the only industry of any consequence, major energy facility development will have a great impact. Planning, platting and zoning may be important mechanisms for insuring compatibility of the development with existing and projected land uses. Sometimes, local bodies are reluctant to impose zoning out of fear of deterring development proposals. This fear is largely unfounded as it relates to energy. Sites meeting the requirements for such facilities are few, so the proposal itself indicates the areas's high degree of desirability. Local government is in a good bargaining position as long as its conditions for siting are reasonable.

(3) Consolidation. Consolidate facilities (6 AAC 80.070(b)(3)).

Discussion

In the strictest sense, consolidation refers to the development and operation of an industrial facility as a unit by a single company or group of companies (unitization) or the sharing of the same facility. Broadly, however, consolidation refers to the concentration of different industrial activities in a single location, as in an industrial park.

Consolidation of energy facilities offers several benefits. The greatest public advantage is that the effects of development--visual, environmental, social and economic--are concentrated in the fewest different locations. Fewer sites imply less complicated and less costly systems of monitoring and of providing utilities or such basic services as fire and police protection. Cost savings may also be realized for industry from reduced capital and operating expenditures and avoidance of delays in processing necessary permits.

This standard means the State will discourage new energy facilities as long as existing sites can handle anticipated industrial needs. Since the effects of consolidation may not always be desirable, consolidation of energy facilities shall be discouraged if the capacity of existing facilities cannot be expanded. Instances when an exception might occur include, but are not limited to circumstances in which:

- (a) Additional harbor activities would seriously jeopardize marine safety;
 - (b) Water supply is insufficient for future demand;
 - (c) Environmental protection measures (e.g., ballast treatment facilities and solid waste disposal sites) at existing facilities could not be expanded to handle new loads; and
 - (d) Air and water quality problems would be compounded to a point where projected environmental degradation would exceed allowable state and federal air and water quality standards.
- (4) Concurrent Use. Consider the concurrent use of facilities for public or economic reasons (6 AAC 80.070 (b)(4)).

Discussion

This standard acknowledges the contribution that major energy facilities could make to local and regional economies if they are planned with imagination and foresight. Provisions for long-term use or conversion of facilities should be included in initial stages of planning.

Service bases offer the greatest potential for concurrent use, particularly as a general cargo dock, because of a similarity of purpose

and vessel size. Once a facility is no longer required, its reuse for similar activities may require only minor rehabilitation and structural alteration. Many facilities--docks, fuel storage tanks, warehouses, outside storage yards, office buildings, onshore pipelines and repair shops--could be reused in this manner.

Specialized facilities such as hydroelectric power projects, crude oil storage tanks and liquefaction plants usually cannot be directly reused or easily converted. If no appropriate ultimate use is determined for these facilities, they should be removed and the site as well as any other land disturbed should be reclaimed or restored. Since this will be costly, provisions for insuring and financing site reclamation or restoration should be stipulated in leases or permits.

- (5) Cooperation. Seek to cooperate with landowners, developers, and federal agencies in the development of facilities (6 AAC 80.070(b)(5)).

Discussion

Cooperative management and development agreements are constructive ways of coordinating the many different decisions that contribute to successful development. The State is willing and seeks to enter into cooperative management and development agreements and to manage its lands and resources accordingly.

ENERGY FACILITY PLANNING....SITING CRITERIA

- (1) Expansion. Select sites with sufficient acreage to allow for reasonable expansion of facilities.
- (2) Infrastructure. Site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements.
- (3) Navigational Safety. Select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions.
- (4) Traffic Control. Encourage the use of vessel traffic control and collision avoidance systems.
- (5) Site Preparation. Select sites where development will require minimal site clearing, dredging and construction in productive habitats.
- (6) Shipping Routes. Site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable

habitats, including marine mammal rookeries and hauling out grounds and waterfowl nesting areas.

- (7) Resource Protection. Site facilities so that the construction of facilities and support infrastructure in coastal areas of Alaska are designed to allow for the free passage and movement of fish and wildlife with due consideration for historic migration patterns, and so that areas of particular scenic, recreational, environmental, or cultural value will be protected.
- (8) Water Quality. Site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained.
- (9) Air Quality. Site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere.
- (10) Compatibility. Select sites designated for industrial purposes and where industrial traffic is minimized through population centers.
- (11) Interference. Select sites where vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(6 AAC 80.070(b)(6)-(16))

ENVIRONMENTAL GUIDELINES AND STANDARDS

The state recognizes the necessity for energy development both to satisfy local demand and to contribute to the national need for energy resources. However, some coastal resources have an inherent vulnerability that makes protection especially critical. Fish spawning and rearing grounds, bird nesting and staging areas, sea mammal rookeries and hauling-out grounds and wildlife wintering areas are among the well-defined and limited habitats that must be protected if valued resource diversity and productivity are to be maintained. Both habitat requirements and resident populations at risk must be recognized when siting, constructing and operating energy facilities.

The guidelines and standards of the Alaska Coastal Management Program provide direction for major energy facility siting and design in hazardous or ecologically sensitive coastal areas. They are accordingly incorporated into the energy element in full.

ENERGY FACILITY PLANNING....IMPLEMENTATION

(1) Planning Provisions

To meet the objectives of the Alaska Coastal Management Program (AS 46.40.020), the State will encourage energy facility planning

that recognizes the national interest in energy development and related coastal dependent industrial uses. Such planning will identify suitable locations for energy facilities and allow for reasonable expansion in designated or zoned areas.

Zoning is a major mechanism for ensuring consolidated and compatible development. Under existing statutes, the Department of Natural Resources and the Department of Transportation and Public Facilities have the authority to zone the unorganized borough and land surrounding airports, respectively. Although the State has not used this authority extensively to date, it may be used to insure that major energy facilities and associated activities are compatible with other land and resource uses. In incorporated areas, the State will be consistent with approved district coastal programs.

AUTHORITY

- AS 29.33.070 Planning, Platting and Zoning 1st and 2nd Class Boroughs
- AS 38.05.037 Planning and Zoning in the Unorganized Borough
- AS 40.15.075 Platting in the Unorganized Borough
- AS 29.43.040 Planning, Platting and Zoning in 1st and 2nd Class Cities in the Unorganized Borough
- AS 35.30.020 State Compliance with Municipal Ordinances
- AS 46.40.100 State and Municipal Compliance with District Coastal Management Programs
- AS 31.05.040 Prescribing Rules and Regulations Governing Oil and Gas Activities on Alaska Lands
- 30 CFR 250.34 Federal Regulations for Exploration, Development and Production Plans on Federal OCS Lands
- 30 CFR 252 Outer Continental Shelf Oil and Gas Information Program

(2) INFORMATION NEEDS FOR EVALUATING PROPOSALS

To adequately evaluate proposals for major energy facilities, the State will require at least the following information from prospective developers:

Facility Proposed - e.g., service base, marine terminal, LNG plant.

Location - Of all facilities and activities associated with or expected to be attracted to the proposed development, e.g. helicopter operations, construction camps, motels.

Description of Proposed Facility - e.g., acreage, site plans, technologies to be used, probability and anticipated causes of system failure.

Expansion - Probability of additional demand on the proposed facility in the future; provisions for expansion and sharing of the facility with other companies; plans for unitization of OCS leases and/or shared pipelines to landfall.

Schedule - Proposed construction schedule and anticipated operational timetable over the life of the facility, e.g., type and level of seasonal activities, anticipated years of peak usage.

Land Status and Ownership - Of development site and other land affected by the proposal, e.g., private, public, unpatented, in litigation.

Management - Of the project, e.g., an oil company; a Native corporation, joint management.

Contractors and Subcontractors - For all or portions of the project.

Resource Requirements - Quantities and probable sources of power, water, gravel and other materials.

Transport - Frequency and routes of boat and aircraft movements and expected level of vehicular traffic in the region resulting from construction or operation of the facility.

Employment - Anticipated number of persons to be employed by job description, tenure (permanent/temporary), and place of employment.

Population - Approximate addition to the population of Alaska by place.

Public Services - Extent of need for the means of providing public services, e.g., road, sewers, water, solid-waste disposal, care, police and fire protection, and other health and social services.

Environmental Implications - Potential environmental benefits, conflicts and mitigative measures, particularly concerning solid-waste management and air and water quality.

Siting and Design - Features to compensate for natural processes (e.g., floods, earthquakes, storms, erosion and sedimentation); to provide for safe and effective management of sewage and solid waste; and to minimize noise and visual impacts.

Economic Implications - e.g., public cost and revenue resulting from the proposed project; potential conflicts with existing industry; anticipated expenditures in Alaska by place.

Social Implications - e.g., training programs, local hiring policy, housing, health care.

Arrangements for Reducing Social, Economic and Environmental Conflicts - e.g., traffic control systems, oil-spill contingency plan, compensation plan, orientation program for imported workers.

Alternative Sites - For the required facilities and operations and reasons for rejecting alternative sites.

AUTHORITY

43 U.S.C. 1331 et seq.	Outer Continental Shelf Lands Act of 1953, as amended
16 U.S.C. 1456	Coastal Zone Management Act of 1972, as amended
42 U.S.C. 4332	National Environmental Policy Act of 1969
30 CFR 250.34	Exploration, development and production plans
15 CFR 930	Federal Consistency with approved coastal management programs

(3) Siting Mechanisms - State and Federal Administrative Procedures

Through consistency requirements and the issuance of permits and leases, the State will ensure that suitable sites for major energy facilities are chosen and developed according to the guidelines and standards of the Alaska Coastal Management Program. The following are among the most important means through which the State will guide energy development. Besides the existing statutory or regulatory requirements for each permit or license, the ACMP Guidelines and Standards and the anticipated administrative order will require conformance with the ACMP as a prerequisite for permit issuance.

(a) State Concurrence with Consistency Certification

According to the regulations promulgated in the Federal Register, lessees of federal OCS lands must submit exploration, development and production plans to the U.S. Geological Survey. States have the opportunity to comment on the adequacy of the plans and concur that the proposed activities are consistent with the state's coastal management program.

State concurrence with consistency certifications will be used to ensure that exploration, development and production plans conform to Alaska's coastal management program, including the energy facility planning standards of 6 AAC 80.070.

AUTHORITY

Pub. L. 92-583, Section 307	Coastal Zone Management Act of 1972, as amended
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(b) State Land Disposal

The State will, to the maximum extent feasible, lease, sell or exchange State land in the vicinity of existing communities if such actions enhance local control over development and the site satisfies the state's siting criteria and if an approved municipal or district plan establishes the desirability of expansion onto state-owned parcels and

provides for phased growth. Although local preference is a significant factor in deciding whether to lease, sell or exchange state land near existing communities, it is not the only factor. Additional considerations are specified in the Alaska Statutes and Administrative Code.

AUTHORITY

AS 38.05.020	Authorities and Duties of the Commissioner
AS 38.05.070-107	Leasing of Lands Other Than for the Extraction of Natural Resources
AS 38.05.300	Classification of Lands
AS 29.48.260	Municipal Properties
11 AAC 58	Leasing of Lands
11 AAC 60	Grazing Leases
11 AAC 62	Tide and Submerged Lands
11 AAC 64	Shore Fisheries Leasing

(c) Leasing of Lands

Land to which the State holds title or to which it may become entitled may be leased through an upland lease, a grazing lease, a tideland lease, or a shore fisheries lease. The director of the Division of Lands, Department of Natural Resources will determine the land to be leased and the conditions, limitations and terms of the lease. In some instances, local municipalities own the tidelands and have the authority to lease or dispose of the property according to the terms and conditions set by the assembly or council.

Where appropriate, the state will facilitate the consolidation of energy activities and will specify concurrent use of facilities as stipulations on leases.

AUTHORITY

AS 38.05.020	Authorities and Duties of the Commissioner
AS 38.05.070-107	Leasing of Lands Other Than for the Extraction of Natural Resources
AS 38.05.300	Classification of Lands
AS 29.48.260	Municipal Properties
11 AAC 58	Leasing of Lands
11 AAC 60	Grazing Leases
11 AAC 62	Tide and Submerged Lands
11 AAC 64	Shore Fisheries Leasing

(d) Tidelands Permit

Projects conducted on State-owned tidelands and submerged lands require permits issued by the Division of Land and Water Management, Department of Natural Resources and the U.S. Department of the Army, Corps of Engineers. Most onshore facilities supporting offshore energy operations will require these permits in conjunction with a lease.

AUTHORITY

- AS 38.05.035 Powers and Duties of the Director
- AS 38.05.330 Permits
- 11 AAC 62 Tide and Submerged Lands Obstruction of Navigable Waters, Generally, Wharves, Piers, etc; Excavation and Filling
- 33 U.S.C. 1413 Dumping Permit Program for Dredged Material

(e) Right-of-Way Lease or Easement

"The State of Alaska reserves unto itself all rights, powers, privileges and immunities not preempted by federal interstate commerce laws and regulations in the right-of-way leasing of any State lands for pipeline construction, transmission, or operation within its boundaries."

Any construction or operation of oil, oil products or natural gas pipelines will commence only after a right-of-way lease and the necessary easements are obtained. Easements or right-of-way leases for crude oil and natural gas pipelines are granted by the Commissioner of Natural Resources on a non-competitive basis under conditions specified by him/her.

While right-of-way leases will only affect that portion of the pipeline crossing State lands, they may influence the location of marine pipeline routes destined for onshore installations.

AUTHORITY

- AS 38.05.035 Powers and Duties of the Director
- AS 38.05.330 Permits
- AS 38.35.010 Legislative Declaration of policy
- 11 AAC 58.200 Right-of-Way or Easement Permit

(f) Land Exchange

When a large parcel of land suitable for development is held in varied ownership by the State, P.L. 92-203 corporations (Native), and a municipality, the parties may enter into an agreement to sell, lease or exchange lands and thus encourage consolidated development at a particular location.

AUTHORITY

- AS 38.95.050 Contracts Between Department of Natural Resources and P.L. 92-203 Corporations
- AS 29.48.260 Municipal Properties

(g) Air Quality Control Permit to Operate

Under certain topographic and meteorological conditions that trap and concentrate pollutants or when there is considerable development already at a particular location, the

siting of an energy facility may cause air quality and related health and nuisance problems. The U.S. Environmental Protection Agency (EPA) and the Alaska Department of Environmental Conservation share responsibility for regulating air emissions.

Under the new amendments to the Clean Air Act, EPA handles permits for all facility development subject to the Prevention of Significant Deterioration Program. Construction or modification of most sources of air emissions which have the potential to emit more than 100 tons per year of any air pollutant, and other sources which have the potential to emit 250 tons per year of any pollutant require air discharge approval. Approval is granted if:

1. The proposed facility will not violate the air quality increment areas classified on a geographical basis;
2. The proposed facility will meet the best available air emission control technology;
3. The proposed facility will not violate national ambient air quality standards;
4. The proposed facility meets all applicable guidelines and standards of the ACMP.

Presently the Alaska Department of Environmental Conservation has not promulgated regulations to implement the Prevention of Significant Deterioration Program. When regulations are adopted, the State will take over this permit function. All other air emissions permits required under the Clean Air Act are issued by the Department of Environmental Conservation.

AUTHORITY

AS 46.03.010	Declaration of Policy
AS 46.03.140	Emission Control Requirements
AS 46.03.150	Classification and Reporting
AS 46.03.160	Additional Contaminant Control Measures
AS 46.03.170	Variances
18 AAC 15	Administrative Procedures
18 AAC 50	Air Quality Control
	Clean Air Act, Part 2
Secs. 160-169	Clean Air Act, as amended in 1977
40 CFR Part 51	Requirements for Preparation, Adoption and Submittal of Implementation Plans

(h) Anadromous Fish Protection Letter of Objection/Non-Objection

Any developer (public or private) who wishes to construct a hydroelectric project, onshore pipeline or engage in other energy activities which could affect the natural flow of a specified anadromous river, lake or stream must obtain approval from the Department of Fish and Game before beginning such a project.

The siting of a major energy facility on, across or near an anadromous river, lake or stream could result in significant changes in the stream including:

- o siltation and sedimentation altering spawning and rearing habitats;
- o blockage of migration routes;
- o spillage of oil and other toxic materials;
- o water withdrawal and dewatering of the system and associated entrapment/impingement.

The Department of Fish and Game will review proposed developments and may place stipulations on the siting, construction and operation of the proposed facility to assure that significant impacts, such as those cited above, will be avoided.

AUTHORITY

AS 16.05.870 Protection of Fish and Game
5 AAC 95.010 Waters Important to Anadromous Fish

(i) Critical Habitat Letter of Objection/Non-Objection

Under AS Title 16, the Department of Fish and Game can require a public or private entity to submit full plans, specifications and schedules for any proposed activities within a critical habitat designated by the state. Prior to commencing any work or development, the person or governmental agency must receive written approval or conditional approval from the Commissioner.

In areas where the siting of major energy facilities may endanger the biological, physical and chemical characteristics of the habitat, the State will consider recommending to the Legislature that these areas be designated critical habitats, thereby enhancing the opportunities for effective management of the impacts.

AUTHORITY

AS 16.20.230	Fish and Game Critical Habitat Areas
AS 16.20.260	Submission of Plans and Specifications
AS 16.20.270	Additional Critical Habitat Areas
6 AAC 80.130	Habitats

(j) Certificate of Risk Avoidance

A Certificate of Risk Avoidance is required of anyone who plans to operate a tank vessel in Alaskan waters, an oil terminal or a marina with storage capacity for refined petroleum products or their by-products.

The certificate is a means to assure that the operator of a facility or carrier has assumed a minimum level of financial responsibility for unlawful discharge of oil, has adopted and fully implemented a Spill Prevention Control and Countermeasure Plan, and has complied with all applicable regulations issued under AS 30.25 or AS 46.03.

AUTHORITY

AS 30.25	Oil Terminal Facilities: Transfer of Crude Oil, Refined Petroleum Products or Their By-Products
AS 46.03	Environmental Conservation
18 AAC 15	Administrative Procedures
18 ACC 20	Certificate of Risk Avoidance

(k) Discharge into Navigable Waters - Certificate of Reasonable Assurance

Any energy-related activity which may result in a discharge into navigable waters of Alaska will need a federal license or permit and a Certificate of Reasonable Assurance from the Department of Environmental Conservation under Section 401 of the Federal Water Pollution Control Act.

Service bases, oil terminals and LNG plants will discharge effluents into nearby waters. Liquid waste is produced from sewage treatment, ballast treatment and cooling water that is significantly warmer than the receiving waters into which it is discharged and often contains biocides and rust inhibitors. The chronic introduction of soluble hydrocarbons into receiving waters adjacent to ballast treatment facilities could impose long-term toxic effects on sensitive marine organisms. This Certificate will assure compliance with the requirements of Sections 401 and 404 of the Federal Water Pollution Control Act, as modified by the Clean Water Act of 1977. It will also be an important means of assuring compliance with the ACMP guidelines and standards, especially by activities affecting wetlands.

AUTHORITY

PL 92-500 Federal Water Pollution Control Act, Section 401
Title 33 U.S.C. Rivers and Harbors Act of 1899, as amended

18 AAC 15 Administrative Procedures
18 AAC 70.081-085 Certificate of Reasonable Assurance

(1) Waste Water Disposal Permit

Any developer who builds or operates a facility which disposes waste water into or upon the waters or surface of the land or into a publicly operated sewerage system must first procure a permit from the Department of Environmental Conservation.

Hazardous wastes and effluents from major energy facilities raise serious concerns as to the proper disposal and subsequent effects on water quality, biota and human health. Proper management of these wastes and effluents will require well-designed sanitary landfill sites, effluent standards and monitoring systems.

AUTHORITY

AS 46.03.100 Waste Disposal Permit
AS 46.03.090 Plans for Pollution Disposal
AS 46.03.110 & 720 Waste Disposal Permit Procedure
18 AAC 15 Administrative Procedures
18 AAC 70 Water Quality Standards
19 AAC 72 Waste water Disposal

(m) Water Use Permit

Many energy-related facilities require dependable sources of fresh water in large quantities. Fresh water is used for domestic purposes, electric power, drilling, fire protection, and cooling. Increased demand in coastal areas raises concerns about potential impacts on ground and surface water (such as lowering of the water table, saltwater intrusion and reduced streamflow), adverse effects on fish and wildlife (if surface water sources are reduced below the minimum flow necessary to sustain them) and possible competition with municipal water systems and other users.

The water use permit is a means to facilitate the appropriation of water for energy-related uses and at the same time to avoid the adverse effects of excess demands on limited water supplies. A developer who needs to appropriate water must first obtain a permit from the Division of Land and Water Management, Department of Natural Resources.

AUTHORITY

AS 46.15.030-185 Appropriation and Use of Water
11 AAC 72 Water Use

(4) Continued Consideration of the National Interest

The energy facility planning process, like other elements of the ACMP, must, under Section 305(b)(8) of the federal CZMA, provide means for continued consideration of the national interest in facilities serving other than local needs, including energy facilities. The manner in which the ACMP, including the energy facility planning process, satisfies this requirement is described in Part II, Chapter 7, Section (c). As noted there, it relies upon the obligation of state and local agencies not to restrict or exclude unreasonably uses of state concern, including energy facilities of more than local significance; and upon the open nature of the procedures that must be followed by these agencies.

(5) Public Involvement

For most permits and all district programs, public involvement is mandated in the governing statutes and regulations. Successful cooperation depends on the generous flow of information and on willingness of local, state and federal agencies and the industry to discuss the issues jointly, mediate differences, and satisfactorily resolve conflicts. The implementation measures described below suggest some of the ongoing means by which the state is involving the public and encouraging timely, coordinated development decisions.

- (a) District Coastal Programs. District program development provides effective opportunities for public participation and discussion of potential energy sites. At least two public meetings are to be held in a district during program development, and one other hearing before giving conceptual approval to the district program, or a significant amendment to it. All persons have the right to present comments to the Council on district programs that are submitted for its approval.
- (b) Attitudinal Surveys and Workshops. The state has and will continue to anticipate and plan for energy developments and the demands they might place on local communities. Many of the analyses are contained in reports circulated to affected groups. In addition, the Department of Community and Regional Affairs and the Alaska Coastal Management Program have an ongoing program of information dissemination, workshops, and attitudinal surveys.
- (c) Orientation of Non-Resident Employees. The State will encourage development companies to conduct orientation programs for non-resident employees on community values to minimize misunderstandings between temporary residents and permanent members of a community.

(6) Coordination

(a) Technical Assistance

The State will assist communities in directing energy-related growth according to local preferences. The Coastal Energy Impact Program has and will continue to be a main vehicle for providing grant and loan assistance to communities impacted by energy-related development. The Department of Community and Regional Affairs is the pass-through agency. Other programs, including manpower training, technical planning assistance, public facility grants, and bond authorizations will also be used to strengthen local management.

AUTHORITY

PL 94-370, Sec. 308
AS 44.47

Coastal Energy Impact Assistance
Department of Community and Regional Affairs

(b) Agency Advisory Committee on Leasing

The Agency Advisory Committee on Leasing (AACL) has already proven to be an effective link between state leasing decisions and local government. In each area where a state lease is scheduled, local government representatives are invited to join with state agencies in providing information and advice to the Commissioner of Natural Resources on oil and gas leasing.

(c) A-95 Review

The A-95 system provides a structural mechanism for coordinating the review of environmental impact statements, federal assistance programs and development projects, OCS exploration, development and production plans and environmental reports. No explicit or procedural criteria are applied to the reviews. However, Alaska does use A-95 as a major vehicle for soliciting and coordinating agency response to proposed energy-related activities. The Division of Policy Development and Planning is the lead agency.

(d) Master Permit Application

The 1977 Legislative Session enacted a law establishing a simplified procedure to assist those who must obtain a permit from one or more federal, state or local government agencies. While this procedure is not mandatory, a person proposing a project may submit a single master application to the Department of Environmental Conservation who will then circulate the application to the other appropriate regulatory agencies for comment. Final decisions will be made on a coordinated basis. Permits to be included in this process are:

- o Waste water disposal permit - AS 46.03.100, 18 AAC 72;
- o Solid waste disposal permit - AS 46.03.100, 18 AAC 60;
- o Air emissions permit - AS 46.03.150, 18 AAC 50.120;
- o Pesticides permit - AS 46.03.320, 18 AAC 90;
- o Surface oiling permit - AS 46.03.740, 18 AAC 75;
- o Open burning permit - AS 46.03.020, 18 AAC 50.120;
- o Anadromous fish protection permit - AS 16.05.870, 5 AAC 94.100;
- o Critical habitat area permit - AS 16.20.250 - 16.20.260;
- o State game refuge land permit - AS 16.20.050 - 16.20.060;
- o Encroachment permit - AS 19.25.200;
- o Utility permit - AS 19.25.010;
- o Driveway permit - AS 19.05.020, 17 AAC 10.020;
- o State park incompatible use permit - AS 41.20.020, 11 AAC 18.010;
- o Access road permit - AS 41.20.020, 11 AAC 18.020;
- o Water well permit AS 31.05.030, 11 AAC 22.140;
- o Brine or other salt water waste disposal permit - AS 31.05.070;
11 AAC 22.250;
- o Coal development permit - AS 27.20.010, 11 AAC 46.010;
- o Right-of-way and easement permits - AS 38.05.330, 11 AAC 58.200;
- o Special land use permit - AS 38 .05.035, 11 AAC 58.210;
- o Tidelands permit - AS 38.05.320, 11 AAC 62.710;
- o Tidelands right-of-way or easement permit - AS 38.05.320, 11 AAC 62.810;
- o Limited personal use permit - AS 38.05.320, 11 AAC 62.820;
- o Permit to appropriate water - AS 46.15.040, 11 AAC 72.050;
- o Dam construction permit - AS 46.15.040, 11 AAC 72.060;
- o Preferred use permit - AS 46.15.040, 11 AAC 72.160;
- o Permit for use of timber or materials - AS 38.05.110, 11 AAC 76.185;
- o Authorization for tidelands transportation - AS 38.05.110, 11 AAC 76.205;
- o Special material use permit - AS 38.05.115, 11 AAC 76.540;
- o Mineral and geothermal prospecting permits - AS 38.05.145;
- o Tide and submerged lands prospecting permit - AS 38.05.250;
- o Surface use permit - AS 38.05.255, 11 AAC 86.600;
- o Burning permit during fire season - AS 41.15.050; 11 AAC 92.010;
- o Miscellaneous state land use permit - AS 38.05.035, 11 AAC 96.010;
- o Right-of-way permit - AS 38.05.330.

(e) Regional Planning Activities

The Alaska Coastal Management Act mandates that the Council establish continuing coordination among state agencies to facilitate the development and implementation of the coastal management program (AS 44.19.893 (2)). Coastal resource planning is to be accomplished on a regional basis and is to include:

- o Assisting the Council in identifying uses of state concern within specific areas of the coast and developing management policies and practices for these uses and areas;

- o Providing resource, social, and economic information on a coordinated regional basis as necessary for development and implementation of the Alaska Coastal Management Program; and
 - o Assisting the Council in identifying, avoiding, and minimizing existing or potential conflicts between coastal resource districts and state and national interest (6 AAC 80.020 (c)).
- (f) Memorandum of Understanding Regarding Procedures and Practices Affecting Oil and Gas Leasing in the Beaufort Sea

Prior to consideration of a joint federal-state lease sale in the Beaufort Sea, federal and state representatives negotiated an M.O.U. to meet the following objectives:

- o Identify general policies and procedures for joint leasing and administrative activities associated with an oil and gas sale in the Beaufort Sea.
 - o Develop guidelines for allocating costs and responsibilities associated with pre-sale and post-sale administration.
 - o Describe a means of developing specific processes and responsibilities.
- (g) Cooperative Agreement Between the Governor of Alaska and the Alaska State Director, Bureau of Land Management, U.S. Department OF the Interior

This agreement establishes a mechanism for the state and BLM to cooperate in the development and implementation of land use plans and policies for the management of public lands and resources within Alaska. Since many public lands, subject to future energy development, fall within federal jurisdiction, this agreement holds promise for cooperative planning on both federal and non-federal lands of mutual concern.

VI. DESCRIPTION OF STATE ENERGY FACILITY PLANNING PROGRAM

During the last three years, the state has sponsored a continuing program designed to provide technical information, siting strategies and planning assistance for coastal energy development. Major components of that program include:

Gulf of Alaska Planning Project

The objective of this project was to formulate a stable and viable policy framework to govern decisions about the

location and management of onshore and nearshore OCS-related developments. The geographic scope was coastal areas affected by petroleum exploration and development in the Northern and Western Gulf. The Department of Community and Regional Affairs designed a program which would (1) provide good technical information about offshore oil development and probable levels of activity (2) suggest an approach to decision-making for onshore facilities that was firm as to purpose but flexibly open to alternative solutions and (3) pave the way for prompt and consistent state action on siting matters. The program resulted in several working documents and a 275-page book entitled Planning for Offshore Oil Development: Gulf of Alaska OCS Handbook, published in April 1978.

Highlights of this project were:

(a) Background Research

Time was allotted to becoming familiar with OCS operations, offshore technology and the Gulf of Alaska region. Four preliminary products resulted:

- o Supply Boat and Port Facility Scenario: OCS Sale No. 39 Northern Gulf of Alaska;
- o Fixed Wing and Helicopter Scenario: OCS Sale No. 39 Northern Gulf of Alaska
- o Description of the Gulf of Alaska and the Gulf OCS Program;
- o Technical Questionnaire on OCS operations submitted to the Alaska Sub-Arctic Offshore Committee.

(b) Industrial Profiles

Eight industrial profiles illustrating and describing the function and requirements of key OCS-related industrial facilities were prepared. Profiles described service bases, submarine pipelines, treatment facilities, oil terminals, LNG plants, refineries, petrochemical plants and concrete platform fabrication yards.

(c) Facility Siting

- o Physical Capability Study. To determine which locations might be capable of handling a marine service base, oil terminal or LNG plant, the Gulf of Alaska region was surveyed with respect to physiography, climate, geology, oceanography, hydrology, soil and vegetation, and fish and wildlife.

- o Preliminary Site Evaluation. Siting criteria for each facility were based on site and access requirements developed in the industrial profiles (e.g., proximity to offshore operations, adequate shelter, harbor depth and maneuvering room, etc.) and state facility siting policies.

Sites in the Gulf of Alaska region were evaluated to see if they were capable of meeting oil company needs, suitable in terms of existing laws and policies, and available for development. The Alaska Department of Fish and Game, the Department of Environmental Conservation and the Department of Natural Resources assisted in this evaluation.

(d) OCS Nearshore and Onshore Policies

The staff spent considerable time organizing a coherent and succinct policy framework to guide onshore and nearshore OCS-related development. Several drafts of findings, goals, and policies were written and reviewed by state agencies, the petroleum industry, local governments and interest groups. The policies were adopted by the Governor and the Alaska Coastal Management Policy Committee.

(e) Development Scenarios

- o Estimates of Activity Levels. To more fully understand the scale of demands to be made on Gulf of Alaska communities, development scenarios, describing different levels of OCS-related activities, were examined for both the Northern and Western Gulf lease sale areas. Assumptions concerning oil and gas reserves, the number of rigs engaged in exploration, fields discovered and platforms installed were used to estimate the demand for supply boat berths, oil terminals and LNG plants.
- o Employment and Population Estimates. For each development scenario, the level of offshore, onshore, indirect and total employment was estimated. By applying a population/employment ratio, population estimates were also derived.

(f) Community Impacts

Although employment and population estimates were tentative, a general outline of local demands which OCS activities might generate was researched. The implications of increased demands for land, housing and public services were examined for Yakutat, Cordova, Seward and Kodiak.

SCOOP Modeling Program

SCOOP is a regionalized model, originally designed to forecast North Sea petroleum activity levels and employment, which has been modified for use in Alaska. The model operates by taking forecasts of the level of petroleum activity offshore and applying them to a series of coefficients to produce forecasts of onshore employment, offshore employment, construction labor, equipment required, oil and gas production and land required. The model has been used by the Department of Community and Regional Affairs to forecast levels of energy development in the Lower Cook Inlet. The next production run will generate forecasts for the Beaufort Sea lease sale area.

Alaska Regional Energy Resource Planning Project-Division of Energy and Power Development, Department of Commerce and Economic Development.

(a) Phase I. Alaska's Energy Picture

The purpose of Phase I is to provide an overview of Alaska's energy picture as it is and where it may be by the year 2000. Particularly noteworthy is completion of a detailed inventory of the state's oil, gas, coal, uranium and hydropower resources involving the location of those resources likely to be developed within the next 25 years. Pertinent social, economic, and environmental issues affecting present and future energy development in the state are also identified.

(b) Phase II. Beluga Coal Field Project

Phase II of the project is concentrating on several important areas with special emphasis on social, economic and environmental impacts resulting from Beluga Coal Field Development. Analyses of applicable permits and licenses required for hydropower and coal development are underway. Additional efforts are concentrating on applicable advanced technologies, small hydro, wood waste, fuel cells, waste heat and land tenure.

(c) Phase III. Energy Intensive Industrial Development Study

This is an attempt to identify specific energy intensive industries which could locate to Alaska, taking into account the state's land, mineral, and energy resources. The study will address the following questions:

- o Where and at what level might the development occur?

- o What are the costs and benefits to the state and its people, should the development take place?
- o What options are available to the state to encourage relocation of some industries and discouragement of others?

(d) An Analysis of Future Electric Power Requirements and Supply Alternatives for the Railbelt Region

This is the first of several analyses which will address power needs and supply options for the Fairbanks-North Star Borough, the Matanuska and Susitna Valleys, Anchorage and the Kenai Peninsula, an area presently consuming over 83% of the state's electric power. Evaluated for the first time are the primary electric power development options to provide the least expensive power to Railbelt Region consumers in view of timing, resources, availability and legal considerations.

(e) Northwest Geothermal Development Plan

As the Alaska representative on the Northwest Geothermal Committee, the Division of Energy and Power Development is an active participant in the Northwest Geothermal Development Plan. Working out of this office, a Research Associate of the Oregon Institute of Technology (Department of Energy contractor for the project) is preparing an inventory of the state's geothermal resources. The main focus of the planning effort is to determine the economic potential of each of Alaska's geothermal sites including a preliminary assessment of institutional and legal barriers, and potential environmental, social and economic impacts.

(f) Rural Energy Survey

A catalog of rural energy information is available. Included in the information gathered and assembled is village fuel use and cost, bulk storage, transportation, construction and electrical use as given by Native villages and corporations, fuel and transport companies and other related agencies. Also included is information on expected fuel shortages and alternative energy sources.

The survey has proven to be helpful in determining the proximity of other fuel that may be available to a village experiencing a fuel shortage emergency.

VII. BIBLIOGRAPHY OF COMPLETED ENERGY-RELATED PLANNING PROJECTS

Alaska Consultants, Inc. 1976. Marine Service Bases for Offshore Oil Development. Anchorage, Alaska.

This report deals primarily with the types of comprehensive service bases developed to support North Sea petroleum operations. It provides good background information on site requirements and types of activities associated with service bases.

-----, 1978. City of Yakutat: Capital Improvements and Services Program. Anchorage, Alaska.

To accommodate energy development in the City of Yakutat, this report looks at a number of development scenarios, forecasts population and city revenues and expenditures for each case and evaluates the future of traditional industries in the event of expanded coastal energy activity.

CH2M/Hill, 1978. Offshore Oil Development in Lower Cook Inlet;

This study identifies anticipated impacts of oil and gas development in Lower Cook Inlet and recommends actions which will enable municipalities to prepare for and cope with the demands of growth.

Alaska Department of Commerce and Economic Development, Division of Energy and Power Development, 1977. Alaska Regional Energy Resources Planning Project-Phase I. Anchorage, Alaska.

A compilation of available information on the renewable and non-renewable energy resources in Alaska, including oil and gas, coal, hydroelectric power and uranium. As a starting point, it is an excellent reference.

Alaska Department of Community and Regional Affairs, Division of Community Planning, 1976. Concepts of Major Energy Facility Planning Legislation. Juneau, Alaska.

The purpose of this paper is to demonstrate the importance of energy facility siting legislation for Alaska, to illustrate the wide spectrum of planning, fiscal and administrative approaches available to achieving such laws and to summarize the various approaches taken to date by other states.

-----, 1978. Gulf of Alaska OCS Handbook. Juneau, Alaska.

The handbook presents the State position on oil and gas development in the Gulf of Alaska and provides a fairly concise description of the offshore industry itself as well as the implications of such development on coastal communities.

-----, 1977. Economic Forecasts-Lower Cook Inlet Lease Sale. Juneau, Alaska.

The third in a series of forecasts of the economic impact on the state of OCS lease sales, this paper estimates the number of jobs that would be created and the additions to population both statewide and in the Kenai Peninsula Borough.

-----, 1977. The Use of Mathematical Models to Evaluate OCS Impact on Alaska. Juneau, Alaska.

A paper describing the SCOOP model used by the Department of Community and Regional Affairs to calculate the impact of OCS development on the state's economy. It is presently the only general description available on the model itself.

Alaska Department of Education, Division of State Libraries and Museums, 1977. Continental Shelf Development: A Bibliographic Background for Alaska. Juneau, Alaska.

The two volume bibliography is a guide to various materials and subjects related to offshore energy development. Organization of the bibliography includes full citations under broad headings and three indexes: author, title and subject.

Alaska Department of Highways, 1976. Transportation Impacts of Outer Continental Shelf Oil and Gas Development in the Northern Gulf of Alaska and Kodiak Areas. Juneau, Alaska.

This report examines the current use and capacities of coastal sea, air and land transport facilities and modes in the Gulf of Alaska region. It assesses present levels of service in light of expected use levels anticipated from OCS development.

David M. Dornbusch & Company, Inc., 1976. Management of OCS-Related Industrial Development - A Guide for Local Communities. San Francisco, California.

The study provides a good overview of approaches and management tools communities might use to insure that coastal energy development is compatible with other land and water uses.

Goldsmith, O.S., T. Morehouse, Institute of Social and Economic Research, 1976. Impact Problems and Intergovernmental Aids in Alaska, Parts I and II. Fairbanks, Alaska.

The overall objectives to this study are to:
(1) describe and analyze public finance and related policy issues of impact aid in Alaska;
(2) identify and assess alternative concepts and methods of impact aid administration; and
(3) make recommendations for state administration of impact assistance programs for local communities.

Kenai Peninsula Borough, 1977. OCS Development: A Headache or a Blessing? Soldotna, Alaska.

A five-volume baseline study of the Kenai Peninsula Borough's municipalities: Homer, Kenai, Seldovia, Seward and Soldotna. The study contains valuable information on physical features, land use, land ownership, population, workforce, natural resources, public revenue and debit, and community facilities and services.

-----, 1977. A Profile of Five Kenai Peninsula Towns. Soldotna, Alaska.

The profiles describe the methodology and results of a community survey on population, housing and community attitudes.

Kramer, Chin & Mayo, Inc., 1978. Kodiak Island Borough Regional Plan and Development Strategy. Seattle, Washington.

This study is a series of working papers which form the basis for the proposed updated version of the Kodiak Island Borough's Comprehensive Plan and energy development strategy. The focus is on the urban area of the island, although village sketch plans are included by reference.

Simpson Usher Jones, Inc., 1977. Kodiak Island Outer Continental Shelf Impact Study. Anchorage, Alaska.

A preliminary look at possible levels of oil activity off the coast of Kodiak Island, policy alternatives for handling the development, and a summary of the impacts.

-----, 1978. Growth Management Strategy-Seward Region. Anchorage, Alaska.

A regional examination of the effects of OCS development on the Seward area. Strategies for coping with possible energy-related growth are briefly discussed.

Woodward-Clyde Consultants, 1977. Oil Terminal and Marine Service Base Sites in the Kodiak Island Borough. Anchorage, Alaska

An evaluation of oil terminal and service base sites in Kodiak Island Borough jointly sponsored by the state, the Borough and the Native corporation. The report examines the advantages and disadvantages of particular sites and ranks them through a decision analysis process.



Appendix 8

Shorefront Access and Protection Planning Process

PREFACE

Unlike other coastal states, Alaska's 33,904 miles of coastline is virtually undeveloped and access to and along the shoreline is for the most part unhindered. However, there are many current developments that could dramatically change this situation. Industrial and residential construction in developed areas, d-2 legislation, Native land selection, homesteading, resource development and natural resource extraction will all affect the amount and location of shoreline available for public use.

The Alaska shoreline abounds with traditional and potential public use areas. Coastal areas have long been major tourist attractions. Recreation is one of the primary uses of the Alaska shoreline. The developments above can, and probably will, isolate vast coastline areas from public use. Public access to the shoreline should be planned for now to insure continued public use and enjoyment of this important natural resource.

This planning process is developed in the spirit of the increasing awareness of the value of wise management of the coastal zone resource.

The time factor for implementing this program is short. As each of the mentioned issues is settled, the preservation of public use areas and the reservation of access will become more difficult.

I. INTRODUCTION

The federal Coastal Zone Management Act of 1972, as amended, specifically calls for states to develop a planning and management process to address public access to and protection of coastal areas. Federal regulations pursuant to Section 305 (b)(7) of the Act cite six elements that are required in order for a state to adequately address the access and protection issue in the context of its coastal management program.

This addresses the questions enumerated in federal program approval regulations and describes the state's coastal planning process which assures that public access to coastal resources is adequately considered through the Alaska Coastal Management Program.

Accordingly, this discusses, in major part, current issues that affect shoreline use and access; the importance of assuring access to certain areas; and the need for additional, coordinated planning and management activities to evaluate and manage areas that are critical for public access.

Section II discusses, in brief, the origins of public concern for access to coastal areas. Section III discusses a number of important statewide issues that will affect or limit shoreline access. Section IV discusses technical and legal definitions that apply to beaches, including a summary of state regulations relating to shoreline access and protection. Section V identifies critical areas (generically and specifically) where access and protection should be provided. Section VI describes the planning program.

II. HISTORICAL PERSPECTIVE

The conflict of private use versus public use of the coastal shoreline and tidelands dates back to the time of England's Magna Charta, the foundation of English Common Law, which is the basis of the American legal system. At this time in England's history, private title to the coastlands was interfering with coastal commercial activity. English common law expanded the jus publicum (public rights) principle to hold the shoreline and tidelands in public trust, even if title had been granted to individual subjects. These public rights to the shoreline held fast up to the time of American Independence and were maintained by the original 13 states and passed on to the non-colonial states as they were admitted to the Union. In short, early American law clearly intended for the states to hold title to their tidelands and submerged lands.

The recent history of legislation concerning coastal zone management and shoreline access in Alaska can be traced to the 1940's and 1950's when the federal government expanded the states' boundaries to include a point three geographical miles seaward of the ordinary low water mark outside inland waters with the passage of the Submerged Lands Act of 1953 (Public Law 83-31; 67 Stat. 29). When the Alaska Statehood Act of 1959 (Public Law 85-508) became law, Alaska received full ownership of

its tidelands and submerged lands pursuant of the Submerged Lands Act of 1953.

The Alaska Constitution further addresses shoreline access in Article VIII when it discusses common use of resources in their natural state (Section 3) and public access to navigable and public waters (Section 14).

The environmental awakening years in the late 1960's saw certain states, such as Oregon, move to preserve their beaches for public use. The Oregon Beach Bill of 1967 (Chapter 601 of 1967) assured continued public use of Oregon's beaches based on doctrines of customary use.

Later, the U.S. Congress, realizing the importance of coastal resources, enacted the Coastal Zone Management Act of 1972 (Public Law 92-583, 86 Stat. 1280) and the Coastal Zone Management Act Amendments of 1976 (Public Law 94-370). These laws not only recognized the commercial and industrial importance of the coastal zone, but also the importance of the natural, recreational, ecological, cultural, and historic resources to the present and future well-being of the people of individual states and the nation as a whole.

Alaska, working within the federal framework, enacted the Alaska Coastal Management Act of 1977. This act established the basic framework in which the Alaska Coastal Management Program is to evolve.

In summary, three themes are evident:

1. Both Congress and the Alaska Legislature have recognized the importance of the proper management of the coastal zone for the benefit and enjoyment of the people now and in the future with the passage of their respective Coastal Zone Management Acts.
2. The State of Alaska, therefore its people, owns the tidelands, submerged lands, and lands beneath navigable and public waters.
3. The federal government and the Alaska State Constitution recognize the importance of access to coastal shoreline areas and navigable waters.

III. CURRENT ALASKA ISSUES AFFECTING SHORELINE ACCESS

Many current issues will have a significant effect on shoreline access in Alaska. These issues can be grouped under the general headings of upland ownership, tideland ownership, and local and state coastal management planning programs. The generally unrestricted access to the coastal zone enjoyed by past generations of Alaskans is coming to a rapid end. Shoreline access will become more and more limited as each one of these issues is settled. These issues exemplify the usefulness of a comprehensive planning process that will identify and reserve shoreline access and protect shorefront areas.

A. Upland Ownership

Land ownership patterns in upland areas can play a critical role in planning programs to protect public access opportunities. A number of issues in Alaska relate to future public coastal access.

1. Alaska Native Claims Settlement Act

The Alaska Native Claims Settlement Act (ANCSA) will have a lasting effect on shoreline access in Alaska. Forty-four million acres of unreserved federal land will be transferred to the Native Corporations, and 36 percent of all coastal townships contain Native selections. Section 17(b)(1) of ANCSA gave the authority to review and reserve easements through Native selected lands to the joint Federal-State Land Use Planning Team (LUPT). The LUPT relinquished its authority to the Secretary of the Interior, who delegated the task to State Director of the Bureau of Land Management (BLM). Guidelines for reviewing easements through Native selected lands were promulgated in 1976 by Secretarial Order 2982.

Included in this order was a continuous shoreline easement 25 feet above the mean high water mark. Order 2982 was successfully contested in District Court by the Native Corporations in Calista v. Andrus, 435 F. Supp. 664 (D. AK 1977). Current Secretarial policies assure that public access easements which are necessary for access to public lands and major waterways will be reserved. General easements for recreation and scenic purposes will not be reserved before or after conveyance of lands under ANCSA. Access easements will be granted only through Native selected lands to preserve existing transportation corridors between two coastal communities, two upland public land areas, or a community and a public land area. Access easements will also be reserved across Native selected lands to the coastline only if significant present use occurs on lands below the mean high tide mark.

Site easements may be reserved for boat and float plane pullout access upon a shore and for temporary camping, loading, or unloading for a period of no more than 24 hours upon a shore, along an access route, at a trailhead, or within a reasonable distance of these points where it is necessary to provide for the use of and access to public lands and major waterways. Site easements will be designated on the coastline only at determined intervals along the coast where there is a need to use coastal waters for travel or access to upland public lands. The spirit of the current easement policy, however, is to grant a minimum number, only where necessary and only when no alternatives are available. Further, the BLM intends to designate all easements by September of 1978.

2. D-2 Legislation

Section 17 (d)(2) of the ANCSA granted the Secretary of the Interior authority to withdraw up to 80 million acres of unreserved public lands and to add them to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems in Alaska. Between 40

to 80 million acres will be classified as wilderness. Wilderness classification may disallow most vehicular traffic. Pending d-2 legislation, if enacted, will have a limiting effect on shoreline access for vehicular oriented recreation. Access through the wilderness areas to the shoreline will be provided for foot travel. Boats will be permitted unlimited access to the shoreline from saltwater. Aircraft access will be allowed where landing sites have been used. D-2 lands not classified wilderness may permit some roads for vehicular access.

The extent of shoreline access on d-2 lands will depend on the final classification of these lands. Non-wilderness National Forest and National Refuge lands will potentially be the least restrictive, allowing access to most recreationists. Lands classified wilderness would be the most limiting, allowing access via navigable saltwater (by boat or floatplane), on foot and in special situations by air in upland areas.

3. Subdivision of Private Lands

In the past, shoreline access in Alaska has been virtually unrestricted. In many cases, people have gained access to the shoreline by traversing or trespassing over whatever land they had to, whether it was private, borough, state or federal. Alaska's small population and lack of development have made this situation possible. However, in recent years, Alaska's population has grown tremendously and urban expansion and second homes outside population centers have become more common. This trend will continue. To meet the demand of the increasing urban and community development and second home development and to cope with high property taxes, landowners in outlying areas are subdividing their holdings. The Matanuska Valley and Kenai Peninsula are areas where subdividing activities are evident. These activities are reducing access to the shoreline.

4. Uses of Public Lands Adverse to Shoreline Access

Certain uses of state public lands could have a lasting adverse effect on shoreline access. Ideally, if an individual leases or purchases state lands adjacent to the shoreline, public access will be guaranteed in accordance with Alaska Statute 38.05.127. However, there are cases where the conveyance or leasing of public lands caused the disruption of access from one point on the shoreline to another. The shoreline staging dock at Nikiski on the Kenai Peninsula is an example of industrial activity disrupting the pedestrian flow along the coastline below the mean high water mark. Numerous other cases of this situation are documented in communities such as Cordova, Juneau, Ketchikan and Kodiak, where filling of tidelands has occurred for industrial purposes.

Shoreline access also has a visual as well as physical mode. Industrialization, urban development, and other activities can disrupt visual access to the coastal zone.

5. Land Disposal Activities

Various state land disposal activities have been touched upon in previous sections. The Department of Natural Resources, Division of Land and Water Management is directed in 11 AAC 70.030 to include in land planning and disposal activities, provisions for access to public or navigable waters and to lands where heavy recreation or non-recreational use exists or is expected.

Homesteading is one type of land disposal employed by the state. Present and proposed homesteading activities, if not properly controlled, will have a significant affect on shoreline access as well as overall land management activities in the State. Homesteading will remove land from public use and restrict public access in varying degrees. Where Alaskans once had unrestrictive access they might find homesites with "no trespassing" signs. Uncontrolled homesteading could also disrupt visual access to the shoreline. Access to navigable waters along section line easements is not sufficient as these easements are not located with regard to topography, highways, resources valued by the public, or other adjacent land uses. Another means of disposing land is by leasing or selling acreage for recreational or residential, agricultural, or resource development use.

6. Vacation of Easements

An easement, when referring to coastal navigable and public waters, is defined by 11 AAC 70.910 as "the perpetual public right of access to the water and recreational use of the land covered by the easement; it does not include the right to camp overnight, to cut trees, to build structures, or trespass beyond the easement."

When property owners subdivide their lands they are usually required to provide easements to each lot. Easements are also reserved on section lines for utilities. Easements may also be obtained by customary use, dedication, and prescription. The majority of these are public property and individuals have the right to use these easements for public access. But these easements are often unmarked or undeveloped and thus unknown to the general public. State and local governments may vacate or make void these easements or rights-of-way and sell them to the adjoining property owner(s). The public land thus becomes private and public access is blocked.

The vacation of easements by governments can have a significant effect on limiting upland access to coastal resources if undertaken indiscriminately.

B. Tideland Ownership

State ownership of tidelands provides a major capability to assure public access is protected. Two issues are important when considering access across these lands.

1. Tideland Leasing

The State of Alaska owns all tidal and submerged lands from the mean high tide mark seaward for three nautical miles. The State holds title to the natural resources found in these lands (totaling about 34 million acres) except for some 25,000 acres of tidelands conveyed to individuals and municipalities who were required to exercise their preference rights prior to 1965. The State may lease tidelands and submerged lands to private parties for resource extraction. Present tideland leases retain for the State the right to provide easements across leased lands. This provision becomes more important with the increasing number of tideland leases being let each year because these leases will have the net effect of limiting access across the tideland.

2. Dredging and Filling

Dredging and filling activities can block passage from one point on the shoreline to another or from one point on the shoreline to a point on the tidelands. These activities limit longshore access and access across the tidelands. Although tideland lease agreements and easement regulations reserve access rights to the State, dredging and filling activities as well as tideland leases for resource extraction may disrupt historic uses of these lands as well as critical habitat areas.

IV. DEFINITION OF BEACH

This section defines "beach" in terms of those areas of the coast which will be addressed in the shorefront access and protection planning process.

The ACMP Guidelines define "beach" as follows: "the area affected by wave action directly from the sea" (6 AAC 85.900(1)). The ACMP Standards define "coastal water" as "all water bodies in the coastal area, including wetlands and the intertidal area" (6 AAC 80.900(2)). "Wetlands" include those vegetated areas extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally-induced water table changes (6 AAC 80.900(19)). Intertidal areas are those areas subject to periodic or occasional inundation by tides (6 AAC 85.900(8)).

Hence, as defined above, those areas subject to the shorefront access and protection planning process are beaches and coastal waters.

V. CRITICAL AREAS WHERE SHORELINE ACCESS AND PROTECTION SHOULD BE PROVIDED

The state and federal coastal management acts recognize that the coastal zone is comprised of a variety of resources. These resources are to be managed in the best interest of the public. Recreation, historic, scenic, and wilderness resources are among those mentioned by the acts. Protection of and assurance of access to these areas should be facilitated by implementation of the ACMP.

A. Shoreline Recreation Areas

Shoreline recreation is one of the major activities that occurs in the coastal zone. The shoreline provides the public with a complete spectrum of recreation activities. In Alaska, these activities include, in part, hunting, fishing, clamming, camping, hiking, boating, wildlife observation, and beachcombing. The demand for shoreline access and recreation areas is increasing as their availability is decreasing. This trend is evident nationwide. Ducsik (1974) comments on the demand for shoreline recreation:

"The demand for outdoor recreation, especially that which is water oriented, is growing rapidly as the trends toward more leisure time, more real income, and greater mobility enable larger proportions of our growing population to seek recreation of all types. The American coastal shoreline, as a unique recreational resource, is ideally situated to accommodate a wide range of these activities; most planners agree that the "hidden demands for recreational use of this resource are enormous, limited only by effective supply..."

The limiting effects of the issues discussed earlier may not become apparent for some time. However, it is important to institute protective measures to insure shoreline access for recreational and other purposes and to set aside areas of importance.

B. Shoreline Historic Sites

Alaska's coastal area has been a center for cultural development throughout man's history. Alaska Natives now and in the past have depended on coastal resources for food, clothing, shelter, and transportation. Early Russian settlers established trade centers on the coast. Gold seekers entered Alaska through the coastal communities of Skagway, Valdez and Nome. Today, the majority of Alaska's residents live in coastal communities.

Coastal areas are rich in sites of historical and archaeological significance. Statewide, nearly 4,000 sites have been identified and catalogued by the State Division of Parks Office of History and Archaeology -- 2,500 of which are located in coastal areas. A recent visitor survey conducted by the Division of Parks (1978) indicates that visiting historical areas is one of the top 10 activities pursued by people visiting state park areas. A marketing survey by the Alaska Travel Marketing Council showed visiting historic communities and resources to be an important "attractor" for the tourism industry. However, as commercial and residential development expands, the possibility of conflict rises.

The state has, in the ACMP Standards, a general obligation to identify historic, prehistoric, and archaeological sites at the state and local level. (6 AAC 80.150.) In addition, for protection of such sites, and for planning the protection of such resources, the state has a number of existing statutory provisions:

The Department of Natural Resources shall develop a continuing plan for the conservation and maximum use in the public interest of the historic, archaeological and scientific resources of the state. (AS 41.20.020)

The Department of Natural Resources shall locate, identify, and preserve in suitable records information regarding historic, prehistoric and archaeological sites, locations and remains. The information shall be submitted to the heads of the executive agencies of the state. (AS 41.35.070)

Prior to public construction or public improvement of any nature which is undertaken by the state or by a private person under contract with or licensed by the state, the Alaska Department of Natural Resources may survey the affected area. If the Department determines that historic, prehistoric or archaeological values will be adversely affected by the project, the project may not be commenced until the Department has performed the necessary field work. Should artifacts be discovered during construction, the Department shall be notified and may stop the project until field work is completed. The cost of field work shall be paid by the agency sponsoring the project. (AS 41.35.070)

A permit from the Department of Natural Resources is required prior to appropriation, excavation, removal or destruction of any historic, prehistoric or archaeological resources of the state. (AS 41.35.200)

C. Coastal Scenic Resources

The entire Alaska coastline is a scenic resource. Some areas on the coastline have more dramatic and spectacular scenic values than others. Visual and physical access are equally important for the enjoyment of scenic resources. Commercial and residential development can seriously disrupt visual access to the shoreline from public places. The City of Anchorage is an example where commercial development has partially disrupted visual access to the scenic features of the shoreline.

Physical access to and longshore access between the significant coastal resources can be disrupted by any of the developments discussed in earlier sections. Homesteading, industrial development, d-2, etc., all will limit the amount of available access to the scenic resources of the shoreline. The West Kenai Peninsula shoreline is noted as being a magnificent scenic resource. Subdivision of private lands and residential development are greatly limiting the amount of physical access to the West Kenai shore. This trend will continue, increase and affect other areas as population pressures increase.

D. Coastal Wilderness Resources

The Alaska Coastal Management Program conducted a series of workshops from September through November 1978. Nearly 2,000 questionnaires were filled out and returned at the workshop and through the mail. The purpose of the workshops was to educate the public on the functions of the Coastal Zone Management Program and to determine the primary concerns of the inhabitants of coastal communities. When asked if wilderness preservation near the coastal areas of their communities would be beneficial, 62% responded good, 20% bad, 13% no effect, and 5% other.

The concept of wilderness is vague. Wilderness is a personal state of mind. To one person, a bicycle ride in one of Anchorage's greenbelt areas is a wilderness experience. To another, wilderness would be kayaking along the pristine coastline of Prince William Sound. To some, the experience is just knowing that there is wilderness to enjoy. Generally, wilderness can be defined as an area where man is a visitor and the land and its systems are untrammelled by man. The majority of communities surveyed by the Coastal Zone Management Program consider wilderness beneficial or good for their community.

Presently, all federal land managing agencies are reviewing all lands under their management to identify any areas that meet the requirements of the National Wilderness Preservation Act of 1964. They will make recommendations for areas to be included into the National Wilderness System. The Alaska Division of Parks plans to introduce wilderness proposals to add areas to the state park system. Several wilderness proposals are included in d-2 legislation. Many areas in Alaska are de facto wilderness because of inaccessibility and rugged topography and will remain such after other wilderness legislation is completed.

Wilderness areas, by their very nature, limit access through them to pedestrian travel. Most motorized vehicles will be disallowed in wilderness areas. Shoreline access by boat or floatplane is permissible unless natural hazards prevent safe docking or landing. These areas will provide an opportunity, for those able, to enjoy a wilderness experience.

Perhaps the most critical issue facing wilderness today is not the preservation of such areas but providing access to them. The Alaska Native Claims Settlement Act and private land ownership, as discussed earlier, will significantly limit access to wilderness areas. Upland access to wilderness areas, as well as other public areas, is in jeopardy after the Native lands are conveyed. After conveyance, easements can either be purchased or obtained through the power of eminent domain. If the wilderness area borders the coastline, access to the area by way of the coastline is assured. However, natural hazards may prohibit access through the coastline, therefore, isolating the area without access.

VI. ACCESS AND PROTECTION STANDARDS AND RULES

The most important state regulations concerning shoreline access and protection are contained in the ACMP Guidelines and Standards set forth in 6 AAC Chapter 80. 6 AAC 80.060, "Recreation," provides:

Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are:

(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or

(2) the area has potential for high quality recreational use because of physical, biological, or cultural features.

Because the designation of recreational areas on or near the shoreline would be pointless if access to those areas were not also provided for in district programs, a requirement to that effect could be read into the "Recreation" standard. In order to make this requirement explicit and to clarify that it applies to activities of state agencies in the coastal area, the Alaska Coastal Policy Council, at its December 14, 1978, meeting, added the following new subsection to 6 AAC 80.060:

(b) Districts and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal waters.

This provision will go into effect upon its approval by the legislature.

6 AAC 80.160 provides for the designation by districts, the Council, and other agencies of "areas which merit special attention" (AMSA's). The types of areas suitable for designation and subsequent protection are listed in the standard and in AS 46.35.210(1). Among these are:

"areas of substantial recreational value or opportunity"

"areas needed to protect, maintain, or replenish coastal land or resources, including... beaches..."

Hence, this special area designation is available for heightened attention to shorefront access and protection.

It should also be noted that, of the habitat standards contained in 6 AAC 80.130, those dealing with rocky islands and seacliffs, barrier islands and lagoons, and exposed high energy coasts help assure the protection of beaches. The other habitat standards in general assure the protection of both beaches and coastal waters.

There are also other existing state regulations pertaining to shoreline access. The state Department of Natural Resources, Division of Land and

Water Management is responsible for the establishment of easements and rights-of-way across conveyed lands to navigable and public waters (11 AAC 70.00). Oceans, seas, bays, and inlets are defined as navigable or public waters by AS 38.05.365. 11 AAC 70.080 pertaining to easements to and along navigable and public waters, states:

"The director shall reserve a continuous easement for public access along any water affected by tidal action when land adjacent to that water is conveyed unless the director determines that such an easement is contrary to public interest. The easement must extend 25 feet upland and 25 feet seaward of the mean highwater line. Where access along the easement is difficult because of topography of obstructions, an alternate upland access route may also be reserved.

If reasonable access is not otherwise available, the director shall reserve an easement or right-of-way to provide access to coastal or inland navigable or public waters in the conveyance of land adjacent to or containing that water unless the director determines that such an easement is contrary to the public interest. The easement must be at least 25 feet wide.

Further additional easements may be reserved to provide increased access where heavy recreational or non-recreational activity exists or is anticipated, to protect portage routes, or to secure access between aircraft landing sites and nearby navigable or public waters.

In determining the easements to be reserved to and along navigable and public water, the director shall solicit comment from the Department of Fish and Game and the Division of Parks and, if appropriate, from other state and municipal agencies."

The authority for these rules is granted by Alaska Statutes 38.05.020, 38.05.035, and 38.05.127.

Alaska Statutes 38.05.020, 38.05.070, 38.05.035, and 38.05.127 grant the power to lease state owned lands, including tidelands, submerged lands, and lands adjacent to coastlines. Written into the current tideland lease agreement are the following stipulations concerning access and certain recreation activities:

"The Lessor (State) expressly reserves the right to grant easements or rights-of-way across the land herein leased if it is determined to be in the best interest of the State to do so provided, however, that the Lessee (local government or private party) shall be entitled to compensation for all improvements or crops which are damaged or destroyed as a direct result of the easement or right-of-way.

The Lessee shall not deny the lawful pursuit or the hunting of game or the taking of fish, provided, however, the Director, upon request in writing, may allow the lands leased herein, or portions thereof, to be posted to prohibit hunting and fishing when it appears necessary in order to properly protect the Lessee and his property."

VII. THE GENERAL PLANNING PROCESS

The basic planning process for provision of access to coastal areas is embodied in the district coastal program development process. In organized areas, districts will assess shorefront access and protection needs; inventory resources including land and water areas, uses, and ownership of these areas; analyze resources in terms of anticipated needs and the environmental capability of lands and waters for uses and activities; and develop policies for shorefront access and protection. District programs will also include methods for implementing the programs and provisions for access.

The process will also rely on the efforts of state agencies, especially the Departments of Fish and Game and Natural Resources. The state will continue its programs of park and recreation area development and will probably continue the current practices of selecting park areas on and near shorelines, and imposing access conditions on disposal and lease of state-owned lands.

Both phases of the process must comply with the ACMP Guidelines and Standards, and will utilize the ACMP authorities and procedures for implementation.

The protection of shoreline areas will also be assured through the district program development and implementation process and state agency activities subject to the ACMP Guidelines and Standards, particularly the habitat standards of 6 AAC 80.130. In addition, however, the special management designation procedures described in Part II, Chapter 4, will be available for this purpose.

VIII. FUNDING SOURCES FOR FURTHER PROGRAM DEVELOPMENT, RESEARCH, AND ACQUISITION OF SHORELINE ACCESS

Funding sources are available to conduct further research and planning studies concerning shoreline access. These studies would further develop the Alaska Coastal Management Program's ability to meet the requirements of section 305(b)(7) of the federal Coastal Zone Management Act. Funding is made available for program expansion through section 306 management program development grants. Further funding for research and planning activities is available through the Coastal Energy Impact Program established by the 1976 Amendments to the CZMA. Section 310 of the amended

Act makes planning grants available for research studies and technical assistance. If the planning and research studies indicate that the purchase of easements is necessary to insure shoreline access, Section 315 of the CZMA provides federal grants to purchase such easements. Grants are also available for acquisition through the Land and Water Conservation Fund administered by the Heritage Conservation and Recreation Service, U.S. Department of Interior.



Appendix 9

Shoreline Erosion Planning Process

I. INTRODUCTION

This outlines Alaska's planning process for assessing the effects of shoreline erosion, and evaluating methods to control or lessen the effects of erosion.

Erosion is the wearing away of land by the action of natural forces. For the purposes of this planning process, these forces are water-related: wave action, tidal currents, littoral currents, and ice. Because of lack of development along much of Alaska's coastline until recently, erosion has been of little consequence since it posed no significant hazard. However, as the pace of development along the shoreline increases, it is important to identify and assess areas of erosion.

The nature and extent of erosion is varied. Ordinary tidal forces are augmented by such additional conditions as extreme tidal variations, and ice in the northern areas. The degree to which material is transported, deposited or added to the shoreline system is also determined by latitude. In the north, streams are small, and there is not an ample source of sediment as in the south where glacier retreat supplies a significant amount of material. The net result is depletion of shoreline. The climate slows erosion to a certain degree, but the result of these factors working together is that man's effects on the processes could be significant.

Study of the coastline indicates that shoreline erosion increases with geographic latitude. Erosion along the rugged and rocky coastline in the southeast has been generally insignificant. Glacier activity supplies a large amount of sediment to the system in the northern Gulf of Alaska area. Erosion hazard is high in some of the Cook Inlet areas because of the exposure of the generally poorly consolidated reistocene bluff deposits and sand spits to direct wave and tidal attack. Rocky shorelines predominate along the Alaska Peninsula and Aleutians, and problems are less severe. However, the entire west coast along up to Barrow is subject to extensive erosion. The predominance of low flatlands composed of sands and gravels fronting on pebbly beaches, and the absence of coastal mountains contribute to a high erosion rate and extensive recession.

Approximately 330 miles of coastline can be classified as developed. Critical erosion may be occurring in as much as one-third of that, while much of the remainder may be subjected to hazards in varying degrees. At least 40 Alaskan communities are faced with a critical erosion problem. The developments most frequently subjected to erosion are personal homes which may vary from dwellings in the villages to expensive homes in Anchorage. Perhaps the most critical and complex problem faces the Native villages which for thousands of years shifted with the land. However, due to advancing civilization, many villages became implanted, and now are threatened with being washed into the sea. The solution to this problem must involve sociological adjustment as well as management.

II. ASSESSMENT OF SHORELINE EROSION

Coastal erosion in Alaska is caused principally by naturally occurring processes unlike other states where man-induced erosion is a significant factor. This is not to imply that man is not an agent to be considered, and that man's influence cannot be ignored, but that it is of lesser importance except in areas of intensive human occupation and use.

The types of erosion which should be considered are mechanical and thermal. Mechanical, which means those which are a function of water (including ice), will occur almost universally throughout Alaska. The degree and effect will depend to a great extent on local conditions such as type of bedrock, and climatic conditions, which will be discussed in depth below. Thermal erosion is largely restricted to permafrost zones which, because of the activities of man, become thawed and then more susceptible to mechanical action.

Occurrence intervals may be important in assessing erosional rates. Mechanical erosion is a continual process in ice-free areas. However, different factors such as this movement of material perpendicular to the shoreline, may be seasonal and cyclic in nature. Other cyclical processes include the scouring of ice, which occurs seasonally when the ice is not fast to the land, and thermal erosion, which can occur only in ice-free periods. One-time events, such as accelerated erosion caused by a storm surge, must be taken into account in any consideration.

Two basic factors which always must be considered in evaluating erosion hazard and potential are vegetation and geomorphology.

Vegetation type and density are, basically, a function of rainfall, temperature and soil characteristics. Beach vegetation may be extremely important in determining the stability of coastal forms, and interference with such natural systems may cause unintended and unexpected results.

Geomorphology is more directly linked to mechanical processes, and to a great extent a result of these processes and the type of material being acted upon. However, past a certain point, the differences in relief will present a new factor for processes to influence.

Many factors must be studied for each area that erosion is active. Daily astronomical tides are important because of the currents which can be produced by the range, and the carrying away effect of bedload and suspension-load. The effects of these currents on sediment transport is poorly understood. More significant is the effect of the wind. Wind may move loose materials, and may cause wind stress on the water, producing a wind tide which increases erosion by increasing beach area subject to wave activity. Most important, wind direction affects the direction of wave approach, and this, taken together with shoreline orientation, determines direction of movement.

Waves and longshore drift are the principle agents of sediment transport, deposition and erosion in the nearshore zone. Wave steepness, as determined by wind and bottom configuration, combined with approach direction and shoreline trend determine direction and rate of sediment transport, since steep waves erode and set up strong longshore currents which move sediment out of the area.

In determining wind direction, major meteorological features must be considered. The fluctuation of barometric pressure is of prime importance since the passage of cyclones causes winds to change in speed and direction, which affects waves. Prevailing winds and features of cyclonic low pressure systems must be seen as part of the dominant energy-generating mechanism.

The source and volume of terrigenous sediment entering the system is a factor to be considered in a coastal processes program. The major rivers are prime suppliers of sediment, and play a significant role in shoreline maintenance. Other states have found that the effect of dams and diversions has been to seriously deplete this source. Many Alaskan rivers have a particularly high sediment load because of their glacial origins. Also, river deltas themselves, can cover significant portions of the coastline, and deltaic processes must be taken into account. This is particularly true of the coastline in the Yukon River and Copper River delta areas.

Storms along the coast line result in rapid erosion in a very short period of time. Such brief extremely high-energy processes occur seasonally, but are notable for their sometimes disastrous effects. Storm surge can greatly accelerate coastline recession, and the equivalent of several years' erosion can occur in one event. Plans in areas susceptible to surge, particularly low-lying coastal areas in the northern part of the state, should consider the effects of such a possibility.

While the primary emphasis of this section is on erosion, the possibilities and effects of progradation cannot be ignored, and should be addressed in any coastal assessment. Depositional shorelines may be extensive in Alaska because of the large amount of sediment entering the system, particularly in the area of the northeastern Gulf of Alaska. Seaward displacement of shoreline can occur also from sudden tectonic events. While accretion does not necessarily pose any physical hazard to property, it may cause economic problems through the removal of small docking facilities from deep water, or the periodic dredging of harbors.

Lastly, coastal features are constructed and destroyed by processes which vary in scale both in time and space. Large coastal features such as mountain ranges, deltas and continental shelves are strongly influenced by crustal plate movements, may develop over long periods of time and need not concern the program unless a tectonic event such as that which occurred in 1964, causing vast areas to subside or emerge, re-occurs. Intermediate scale factors including estuaries, spits and barrier islands are more closely related to change in sea level caused by tectonic changes or glaciation and may be formed in hundreds to thousands of years. Small features including beaches, nearshore bars and rip channels are controlled by regular processes. It must be kept in mind that the smaller features caused by wind and storm waves and currents are superimposed on the much larger forms caused by global tectonics and eustatic change in sea level.

Aside from the daily wearing away of the coast by natural forces, the activities of man can begin or accelerate erosion. Often man-made

structures which are intended to alleviate erosional problems only exacerbate the situation.

Structures, such as groins or jetties, interrupt sand budget and, while trapping sand on one side of the structure, cause erosion downside as the longshore current moving parallel to the shore picks up material. Other human activities, such as mining of beach deposits and channel dredging, undermine and deepen offshore submarine profiles, which accelerates erosion. Finally, the removal of stabilizing vegetation interferes with natural buffer zones, and disturbances in the insulating material over permafrost quickens the incidence of thermal erosion. All man-induced activities, in the final analysis, are controllable, since the choice exists whether or not to undertake the activity which causes the disruption. Because of the small percentage of inhabited coastline, man-induced erosion in Alaska is not yet a major problem. However, without adequate study and control, unwise activity could result in greatly increased erosion problems.

The process of coastal erosion is generally a slow and noticeable one, though not necessarily a predictable one. However, many of Alaska's communities are situated on the coastline, and are directly dependent on it for transportation and livelihood, so the possibility and amount of erosion is of serious consequence to further development. Because of this overall dependence on maritime resources by such a large number of people, the implications of erosion on some aspects such as harbor siting may be significant. Predictable erosion rates cause few problems, but any construction in an active erosional area must proceed with the understanding that the structure may be eroded before the end of the projected life of the development, resulting in a total destruction of the structure and complete loss of capital. Losses may occur to public or private lands, property or facilities, and public recreational resources.

III. PLANNING PROCESS

The shoreline erosion planning process is part of a comprehensive planning process for coastal hazards. The following outlines how this process works.

Identification

The ACMP geophysical hazard areas standard prescribes planning and management considerations for shoreline erosion. The management part of the standard is discussed in a following section. The planning part of the standard requires districts and state agencies to

identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur (6 AAC 80.050(a)).

These areas are defined as including erosion areas and are considered hazards when they present a threat to life or property (6AAC 80.900(9)). At the present time there is no complete source of information on areas of erosion, but it will be produced in the course of conformance with

this standard. Identification of erosion areas will be limited to areas where coastal development is imminent or anticipated, in addition to recording information about areas already known to present erosion hazards.

Assessment

In the course of district program development, an inventory of areas of erosion will be completed. The planning process for districts is described in 6 AAC 85. Districts will complete resource inventories which describe land and water areas and uses of these areas, and resource analyses which describe changes in lands and waters and uses of these areas. Districts will evaluate the environmental capability and sensitivity of resources and uses and assess anticipated needs and demands for coastal resources. In this manner, the nature and extent of erosion will be determined.

Districts will receive technical assistance from state agencies in indentifying and assessing erosion areas. In areas for which district programs are not approved, state agencies will have to identfy erosion areas where development is anticipated or imminent in order to assess whether erosion is a hazard to life or property. Information, although not complete, about coastal hazards has and will be compiled by the Departments of Natural Resources and Public Safety.

Funding under Section 306 of the Coastal Zone Management Act will be available to the state to do the necessary survey and inventory work for identifying erosion hazard areas.

Management

Once erosion hazard identifications are completed, the ACMP geophysical hazard area standard requires that

Development in areas identified... may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided (6 AAC 80.050(b)).

In the course of program development, districts will determine those uses of their coastal areas which will be considered proper or improper. This may be done generally or for specific geographic areas, such as erosion hazard areas. Districts must also develop policies for areas in need of management, such as erosion areas, and the policies must be consistent with the ACMP Standards, including the geophysical hazard area standard.

This standard allows structural solutions to erosion hazards, but non-structural solutions may be applied. Structural solutions include seawalls, bulkheads, revetments, groins, jetties, and breakwaters. Non-structural solutions include setbacks and building codes which prescribe proper siting, design and construction criteria for coastal development.

In areas already developed, structural solutions to erosion may be most appropriate for economic and social reasons since these areas may not be able to accommodate the non-structural solutions which would otherwise be preferred. In areas where development is imminent or anticipated, either structural or non-structural solutions may be applied depending on circumstances and conditions. Frequently, structural solutions are found to be inadequate because protective works entail high initial costs, high frequency of maintenance and often exacerbate erosion hazards.

Along the undeveloped coast where development is not imminent, Alaska's policy is not to control erosion. This policy is implicit in the ACMP habitat standards which mandate protection of natural features and processes. These standards also have the effect of protecting natural buffer areas which prevent erosion from becoming a hazard in the face of coastal development. The overall policy in all cases is to minimize property damage and protect against the loss of life due to erosion hazards.

In areas identified as erosion hazards, the hazard standard will be implemented by districts which must demonstrate the authority to insure implementation of their policies in order to obtain approval of their programs. Possible implementation methods for district programs are listed in 6 AAC 85.100. State agencies will not approve development in identified erosion hazard areas unless conformance with the hazard standard is achieved. Chapter 6 of Part II of this document discusses how the state will implement the ACMP Standards. The detailed siting, design and construction measures required by the ACMP hazard standard may have to be determined by those who propose development in erosion hazard areas.

Special Management

The ACMP also provides a method to focus special management attention on identified erosion hazard areas. "Areas of significant hazard due to storms, slides, floods, erosion or settlement" may be designated as "areas which merit special attention" (AS 46.35.210(f)). Designation of these areas may be recommended by anyone. Districts will designate the areas in organized areas of Alaska; the Alaska Coastal Policy Council may designate these areas in unorganized areas. Designations will include a management scheme for the area which describes proper and improper uses and management policies, and identifies the authority which will be used to implement the proposed management scheme (6 AAC 80.160). Management schemes for areas which merit special attention must preserve, protect, enhance or restore the value or values for which the area was designated (6 AAC 80.160(c)).



Appendix 10

Procedures for Agency Involvement in District Program Development

DISTRICT COORDINATION PROCEDURE

Office of Coastal Management

- I. When a district applies for grant funds to produce a coastal management program, and a work program has been approved, OCM Staff will transmit a copy of the work program along with a Comment Sheet and cover letter to all state, federal and private agencies that have indicated a desire to be notified, with copies to the district, CRA and other interested parties.
 - A. A representative should be established by each agency to handle all comment sheets.
 - B. The distribution list (transmitted to you October 2, 1978) should be kept current by notification of any changes to OCM.
- II. After notification by OCM of the district work program, the agency contacted should consult internally and externally to determine if the agency should be directly involved in the program or only make comments.
 - A. This determination should be made within 30 days and the decision conveyed to OCM by means of the comment sheet. If the agency does not feel that it is directly involved, it should be noted on the comment sheet and returned to OCM. If the agency has reason to become directly involved with the work program, it should be detailed to the greatest extent possible on the comment sheet, with additional sheets if needed, and returned to OCM for further processing.
- III. The Deputy Coordinator for District Program Assistance, located in the OCM in Juneau, has the responsibility for agency coordination and maintenance of the District Record Files. Upon receipt of all agencies' comments at the end of the 30 day review period, the Deputy Coordinator will activate the Record File for the approved district work program and make the necessary arrangements for future communications and involvement by the agencies which indicate their desire to participate and/or pass along pertinent information.
- IV. The District Record File will be established and maintained by OCM Staff at the time the agencies are first notified of a work program. The Comment Sheet received by OCM will trigger the coordination process and activate the Record File.
 - A. The Record File will contain all evidence of the entire work program and any subsequent correspondence necessary for review

and approval by the OCM Staff for recommendation to the Council. All correspondence and evidence of information exchange or meetings should be sent to OCM for incorporation into this record file. (The record file will also incorporate all public participation information and records as further evidence of compliance and conformance.)

- B. If any agency indicates interest in involvement with the District Program, OCM as coordinator, will notify the district representative and/or their consultants, of the various agencies that are interested in the subject work program. The district will be responsible for contacting the agency representative to set up an avenue of discussion.
- C. Meetings (two or three, depending on the amount of involvement) would be scheduled by CRA Staff for the district, at the beginning of the work program and again during the review of the policy development stage. When notified, OCM Staff will transmit notice and any appropriate and necessary background materials. OCM Staff also will be available to attend any of the informational meetings to offer assistance or help facilitate a smooth transfer of information. (At this point, conformance may be achieved and further dialogue between state, federal and the district would no longer be necessary.)

V. Agency Disputes.

- A. If an informal discussion between parties does not solve disagreements between agencies and districts during the local program development process, OCM will sit in on a meeting to seek a solution to the disagreement. This meeting should be set up by CRA, but can be arranged by OCM if necessary.
- B. If there is still disagreement after the meeting, a second, more formal meeting will be set up with the parties involved, OCM and agency representatives.
- C. If differences are not resolved by meetings, OCM with the agreement of the other parties involved, will take the matter to the Coastal Policy Council for resolution by that body. (Note, this resolution by the Council is not the same as the procedure, the Council will use for settling disputes after the local program is completed.)

- VI. The state and federal agencies will continue to be involved during the development of the district program until the completed program is submitted for review and comment by the District for its public hearing. The program document is then reviewed and transmitted along with recommendation to the Council by OCM.

- A. If additional information, evidence or testimony becomes available from state or federal agencies at any time during program development, the OCM should be made aware of such and copies transmitted to this office for incorporation into the District's Record File.

VII. After the 30 day agency review period, which follows distribution of the district work program, OCM Staff will send the district information received through the review process and assist them if necessary, in setting up their coordination process. A district representative, as well as a consultant representative (if one is hired), should be designated for all future contacts.

- A. All evidence of dialogue between the district and any local, state or federal agency, shall be dispatched to OCM for incorporation into the record file.

VIII. When requested, the OCM staff will attend any meetings to provide guidance for a smooth transfer of data or to answer questions about the coordination process.

- A. OCM will also maintain and provide a current list of contact persons for each agency involved in the work program.
- B. At any time there is a change in any of the information on the contact list, please notify OCM via the Comment Sheet to facilitate keeping the list current.

District Coordination Procedures Introduction

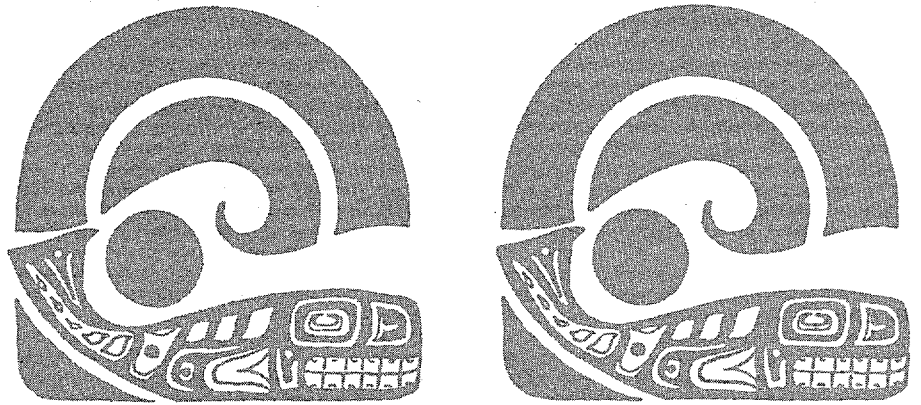
Both the state and federal coastal management programs are based on participation by all affected parties at all important points in the development of coastal programs. For the Alaska Coastal Management Program (ACMP) this is especially important at the local level. ACMP is based in large part on the coastal programs to be developed by local governments. It is crucial that local governments make every effort to involve state and federal agencies early in the development of their coastal programs and maintain that involvement throughout the program development and implementation period.

It is just as important, also, that state and federal agencies make positive efforts to be involved in local programs. By early involvement, the district which has been granted work program approval, can be made aware of any helpful existing information, data and material that would be available from federal and state agencies to assist them in their program preparation. By setting up and maintaining an open line of communication between the agencies during program formulation and at completion, the differences and points of conflict can be reconciled and consistency requirements met before they reach the final approval stage.

The Office of Coastal Management (OCM), is involved with the District approval process in that it is required to maintain a "District Record File". This file is to contain all the evidence of the District Program which would be used for Council approval. Since these responsibilities are related to the work program coordination, the OCM has set up a procedure whereby federal and state agencies will be involved in the various steps of program development and evidence for the Record File can be cleared through a single contact. A Deputy Coordinator for District Program Assistance has been assigned full time to establish OCM as a central point of coordination; and if necessary, in cases of conflict, a mediator for local, state and federal agencies in achieving a viable management program.

This procedure is suggested so that proper lines of communications are set up and maintained to accomplish the best coordinating effort for all involved.

It is felt that the following procedure for agency involvement will simplify the final review and recommendation to the Alaska Coastal Policy Council and will set up an open line of communication with constant awareness before, during and after the district program preparation.



Attachment 1

History of the Alaska Coastal Management Program

ATTACHMENT 1: HISTORY OF THE ALASKA COASTAL MANAGEMENT PROGRAM

In Alaska, like other west coast states, interest in coastal management preceded the passage of Federal legislation. In the early 1970's, it was recognized that detailed resource information was necessary to resolve management problems. But for much of the remote and uninhabited Alaskan coast and offshore waters, little or nothing was known. A special effort to gather scientific information on coastal lands and waters was established at the state level.

First Year: (1974-1975) Identifying the Resources of Alaska's Coast

In 1974, the State of Alaska received its first CZM grant. The program was then established in the Department of Environmental Conservation, during the Administration of Governor Egan. A work program was developed to meet the requirements of the Federal CZMA, with an emphasis on development of a scientific basis for decisions affecting coastal resources. Midway in the grant period, after the election of Governor Hammond, the ACMP was moved to the Office of the Governor.

Despite the difficulties presented by the initiation of a new program, followed immediately by a change in Administration, Alaska's first year of program development provided products which were applied to the definition of boundaries, permissible uses, areas of particular concern, and the structure of the management system. Because the collection of information was based on early lease-sale areas, products are available to support the development of district coastal programs in the Cook Inlet and Gulf of Alaska regions.

Second Year: (1976) A Shift to Management Responsibilities

The second-year work program was developed in the Fall of 1975 by ACMP with assistance from OCZM and consultants to ACMP. In one respect, the work program was a response to the difficulties of the first-year. The first year resulted in separate products rather than a comprehensive system for program development. Coastal planning was also hampered by the conspicuous defeat of the State's first proposed coastal management bill. Opponents of coastal planning contended that the State had failed to make a case for establishing a program, which discouraged attempts to initiate public participation and local government involvement.

The second-year work program represented a commitment to developing the structure of the program while continuing the long range tasks started in the first year. It was not until after the grant was completed that an initial structure for organization of ACMP (the Coastal Management Policy Committee) was formally established by the Governor.

Immediately after the start of the second-year, the ACMP staff assisted the Policy Committee in developing a coastal management bill, which was introduced by the Governor on the opening day of the 1976 session of the Legislature. Considerable staff time was involved in preparation of the draft, in attending hearings, and discussing the bill with various interest groups.

Although the bill did not receive final action during the session, it represented a recognizable shift from the image of SB 175, the Administration's 1974 CZM bill.

During the first months of the second-year, the ACMP staff developed an overall coastal program design to establish a more detailed explanation of the structure of the management program. ACMP staff attended a large number of meetings, workshops and hearings to provide information on the changing focus of coastal management in the state. This effort in establishing a public participation system resulted in a large number of showings of ACMP's films in coastal communities and on state-wide television. Later in 1976, a considerable amount of time was devoted to individual meetings and conferences with Commissioners and key agency staff. These led to two Policy Committee meetings at which future CZM legislation was reviewed. The Policy Committee reached consensus that the program and future legislation should focus on the definition of state and local roles in management. The Committee agreed to a major effort in policy development, and to the preparation of a legislative proposal which was consistent with the points agreed on at the meetings during June and July of 1976.

After reaching agreement on an approach, members of the Policy Committee and ACMP staff discussed the issue with the Governor. The Governor urged an emphasis on local government participation in the program. Shortly thereafter, the members of the Policy Committee began meeting with legislators to discuss possible action on a coastal management bill for Alaska. These discussions were part of the work of a committee (called the HCR 123 Committee) composed of legislators and representatives of the administration. The Committee completed a final report on coastal management to the legislature in January of 1977.

Third Year: (1977) Legislative Recognition-Detailed Development

The HCR 123 Committee prepared and presented new legislation for coastal management to the Legislature in January of 1977. Several months passed during discussion of that bill and eventually the Alaska Coastal Management Act became law in June of 1977. The Office of Coastal Management in the Division of Policy Development and Planning became the recognized lead agency for the program and was also designated as the staff of the Alaska Coastal Policy Council, a group which was formed by the Act.

The Act provided that local governments situated in coastal areas prepare coastal management programs using the land planning and managing powers already held by those local governments. The local plans are to be reviewed and approved by the Council. (Council actions are subject to review and approval by the legislature as well.) In order to guide the development and substance of the local programs, the Council was also instructed to prepare guidelines and standards for management of coastal land and water areas and uses to be adopted by regulation. These regulations became the focus of ACMP activity for the next twelve months.

OCM conducted a massive public involvement campaign in the fall of 1977 in order to propose guidelines to the Council which addressed the important coastal problems, and which would receive public support. The Council issued a hearing draft of the regulations in winter of 1978 for public review, just as the third year of the program came to a close.

Also during the third year, some local governments began to develop their own coastal programs. The Department of Fish and Game completed the Biophysical Boundary maps of the Alaska coastal zone and other state agencies continued to gather information and prepare for administration of the program as it took on more and more substance.

By the end of the third year, ACMP had changed dramatically. The Council was in full charge of the program and several definite goals had been reached and new ones established. What remained for the fourth year was to complete the preparation of the ACMP regulations and obtain both Council and legislative approval of the them. This would set the stage for Federal approval of ACMP.

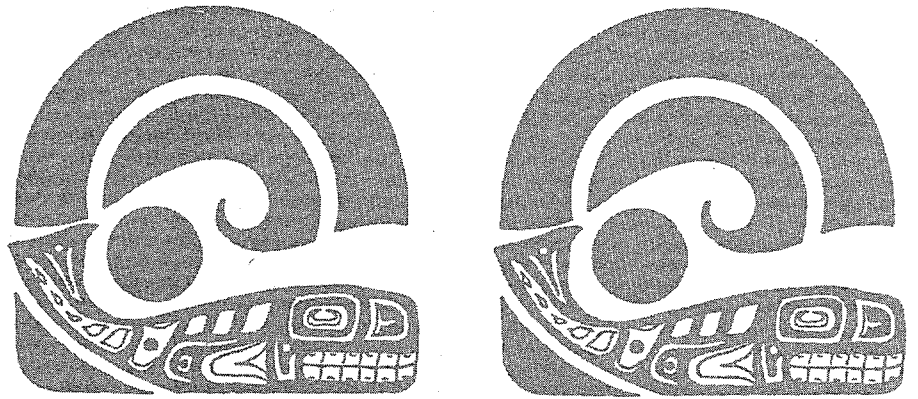
Fourth Year: (1978) ACMP Assumes Final Form

Early in the fourth year the Council and OCM held a series of fifteen hearings on the proposed regulations. In March of 1978, the Council adopted a revised version and sent the regulations on to the legislature. Three more months passed before the legislature acted in the affirmative and the ACMP Guidelines and Standards became administrative law for the state.

State agencies are obliged to implement the ACMP regulations in carrying out their regular management activities along the coast. These activities are substantial in number and scope. The ACMP regulations represent unified state policy on many coastal issues and the existing authorities of the state agencies represent comprehensive management powers that are used to assure adherence to the regulations by significant users of coastal resources. With Federal approval of ACMP, and the accompanying responsibility for Federal agencies to issue permits and licenses consistently with ACMP policies, this aspect of the collaborative management process will be complete.

Local governments have also begun to prepare coastal programs in earnest with legislative approval of the ACMP regulations, and these efforts now have clearer direction with the formal establishment of the ACMP regulations.

Since July of 1978, Alaska has been prepared to seek Federal approval of ACMP under the terms of the national Coastal Zone Management Act. When the first formal Preview Draft was distributed for public review, hearings were held and the current program prepared as a result.



Attachment 2

Alternatives Considered in Developing the Alaska Coastal Management Program

ATTACHMENT 2: ALTERNATIVES CONSIDERED IN DEVELOPING THE COASTAL MANAGEMENT PROGRAM

The ACMP was structured to address and attempt to resolve major coastal resource development issues, especially those identified through the public participation process.

The following alternatives were considered through the development of the ACMP:

1. Program versus no program;
2. Use of existing authorities and planning versus the development of new structures;
3. State-only program versus cooperating in the federal CZM program;
4. State controlled program versus shared state/local control;
5. Performance standards versus policy standards;
6. Boundary-setting alternatives.

1. Program Versus No Program

Before ACMP was considered, there existed a number of state, Federal, local and private programs which affected the management of coastal resources. Among them are the species management programs of state, Federal and private land holders and living resource management agencies, and as many land management programs of widely varying degrees of goals, powers, and effectiveness as there are government and private land owners with proprietary management rights. There are police-power types of management programs as well, including planning and zoning by local governments and the air and water pollution control powers of EPA and the Alaska Department of Environmental Conservation. There are also policy and budget management programs at the state and Federal levels aimed at program integration and coordination. Many of these government management programs require public notice before substantive actions are taken. Some even have public involvement requirements to assure that public input is taken into account in the formulation of new policies.

Passage of the Federal CZM Act did not answer this question for Alaska. The Act did not require a state program, although powerful incentives for the adoption of a program on the state level were offered. Had the state desired, these incentives could have been ignored. The federal consistency provisions are desirable, but it is possible that a good deal of this consistency could be attained through recourse to the courts and the use of political suasion.

Absent ACMP, no mechanism exists for detailed coastal planning for the huge unincorporated area of the state by its residents, although if the desire to implement plans for these areas was great enough, a planning effort could be mounted, assuming that the state legislature and government would provide sufficient funds and trained personnel. This is also true of most of the other elements of the present ACMP.

However, ACMP is specifically intended to define the coastal issues, bring together those people and agencies involved and establish land and water use management rules for coastal resources which will work to resolve policy problems. No program in existence can do this as well. Other programs are, for various reasons, often in a party position to policy disputes and none are charged with resolving conflicts for coastal areas from a comprehensive viewpoint. While other programs recognize that well-planned land use would resolve many coastal problems, none are charged with assuring that land use planning aimed at coastal problem resolution takes place. There is a general government ethic that programs which relate to each other should coordinate their efforts, but few are charged, or funded, to assure that this coordination takes place.

Each state program represents an aspect of the whole state interest, but none are capable, by themselves, of determining an overall state interest and coordinating its implementation. ACMP is specifically enabled to coordinate the interests of all of the agencies and parties to coastal decision-making, and is charged with resolving conflicts between interests.

A consideration of these factors led the Alaska Legislature to adopt the Alaska Coastal Management Act.

2. Use of Existing Authorities and Planning Versus the Development of a New Structure

Before the legislature acted by passing Alaska's CZM Act, there was an effort within state government to meet the goals of the Act by using existing state legislation and powers, using administrative and executive orders and formal interagency agreements.

One of the immediate problems with the existing structure and authority approach was the lack of a viable role for local governments. Other problems were a lack of coherent state policy for central issues and the inability of this approach to include private (including Native) landowners. Absent specific legislation, the state government only had authority over its own actions. This approach also lacked an effective way to include guidance from the legislature.

Further weaknesses were a need for legislation to deal with the unincorporated area, relations with local governments, and an inability to coordinate with Federal programs outside of the context of the CZMA.

All of these problems led to the decision to seek state legislative action which resulted in the Alaska Act, which in turn established the Policy Council and an important role for local governments.

3. State-Only Program Versus Cooperating in Federal CZM Program

The question of what would happen if Federal approval of ACMP were withheld, or if it became apparent that the costs of gaining Federal approval were too high, has been examined.

First, the benefits to Alaska: The funds to develop and operate the program are helpful, and, given the state's financial position, there is a real question if it could have undertaken the program without this financial assistance. Federal consistency is the other major benefit. The value of Federal consistency to the state is substantially affected by the "excluded Federal lands" feature of the CZM Act. As presently interpreted, any land in which the Federal government has an interest, even if the land is only leased, is excluded from the state coastal zone. While additional interpretations provide that Federal development which results in impacts off the excluded land must be consistent (at least as far as the impacts go) with the state policies, this exclusion could result in a great deal of Federal development taking place outside of the control of the state's coastal management program. Should this developed land leave Federal ownership (as will surely happen in the large transfers which will take place under the Alaska Native Claims Settlement Act and the Statehood Act), there is a good chance that the state will be left with a legacy of Federal development inconsistent with state management goals. The interpretation of what is and what is not federally excluded land may change as the matter is judicially reviewed.

A possible disadvantage to participation in the federal program is that the state must structure its program to meet the Federal Act and CZM regulations, and meet Federal expectations in grant applications. This had the potential of eliminating options and program development strategies for the state. To date this has not proven to be a problem. The Federal Act and regulations are not unlike the standard comprehensive planning process that is used in resource management, and the need to work within Federal expectations has provided positive emphasis and impetus to the program.

The most compelling reason, aside from funding, for participation in the federal CZM program is the fact that all participants are mandated to cooperate, and this includes the Federal establishment. For ACMP not to have participated in the Federal program would have resulted in far less efficient coordination with the Federal agencies whose degree of control of Alaska land is extensive.

Beyond this, Federal agencies may have been far less willing to devote their time and efforts to a state program which was not participating in the national CZM effort.

4. State Controlled Program Versus Shared State/Local Control

The arguments for a state-dominated CZM program were the relative inexperience of many local governments, the huge state proprietary interests in Alaskan coastal resources, and the fact that substantial areas of the state are unincorporated and have no local planning and zoning powers which could be focused on coastal issues.

On consideration, a state-dominated program was found to be unacceptable. First, such a program would have been politically unworkable, and would have alienated local governments from participation in further state planning. The vastness of the Alaskan coastal resource made the participation of knowledgeable local governments extremely important for effective control, as tools available to coastal planners for land use control are mostly zoning and other types of police powers which are traditionally, and effectively, in the hands of local governments.

The legislature then provided a means for the unincorporated areas of the state to organize on a limited-power basis for the purpose of coastal management. The state already had land use control authority for the unincorporated areas that could be used to implement the plans developed by these special organizations. This eliminated the problem of "coverage" for coastal planning in the unincorporated areas.

As now structured, the ACMP is shared between state and local government. The state's role is found in the Alaska CZM Act, the ACMP Guidelines and Standards, regional coastal planning, and the power of the Council to review and approve local plans. The local governments will do detailed land and water use planning for their coastal areas and may expect state (and then Federal) consistency when their local plan has been approved by the Council and legislature.

5. Performance Standards Versus Policy Standards

ACMP's operating policies, as found in the Alaska CZM Act and in the ACMP Guidelines and Standards, are policy rather than performance standards. They are rather brief and address all of the major coastal issues expressed at our public hearings and workshops.

Performance standards are often put forward as a desirable policy framework because they are oriented towards preventing certain impacts but do not otherwise direct development. While this allows a good deal of freedom to the developer, it could cause problems if the undesirable impacts are not clearly spelled out or predicted in advance. Performance standards are in common use in municipal zoning ordinances but are complex and require a great deal of work to develop. For Alaska's statewide standards, covering many different types of areas and situations, performance standards would have had to be encyclopedic in scope and minute in detail, leading, if nothing else, to undue restrictions and unrealistic standards for the inevitably missed special situation. The scope of local variations in Alaska was one of the prime reasons for the inclusion of the substantial role for the state's local governments.

Policy standards tend to be more general and adaptable and allow maximum local flexibility and interpretation. They are intended to set a minimum standard, and as refinements of the even more general policies of the Alaska CZM Act. Aside from the unavailability of the time which would have been needed to prepare adequate performance standards, the Council chose policy standards for the ACMP Guidelines and Standards because they were a straight-forward way of declaring what they felt was acceptable and what was not. Also, certain aspects of coastal management, such as water-relatedness, are difficult to deal with by the performance standard approach.

6. Boundary-Setting Alternatives

The CZMA requires states to set the boundaries of their coastal zones. This is a complicated issue as boundaries are geographically expressed but, as required by the CZMA, determined by the consideration of non-geographic factors such as potential uses.

There are several options for boundary setting. Some states have declared semi-arbitrary dimensional limits for the upland boundary. (The seaward boundary is not a problem as there are no alternatives; the CZMA sets this at the limits of the territorial sea.) The practice of setting definite dimensional boundaries has merits, in that the issue becomes one of feet and inches. Choosing a specific boundary must be done with impacts of land uses in mind so that the boundary is neither so close to the shoreline that major upland developments which will impact the coast will not be manageable, nor so far inland that coastal management might interfere with matters unrelated to coastal issues. Selecting a boundary is also dependent, in part, on the type of management schemes which will be used. Some states have selected multiple boundaries in conjunction with their management systems so that the tier nearest the water's edge is subject to more management attention than those further inland.

Another boundary-setting technique, and the one selected for use in Alaska, is to actually study the nature of the coastal resources in each segment or area of the coast, consider the types of impacts for each relationship of the marine environment to the land environment, and then set the boundaries on the basis of determined impacts on the land-water relationships.

This also can be done, and has been done here, in tiers, so that the boundaries are defined in terms of zones of marine influence. Because of the size and diversity of the Alaska coastal resource the direct study method was used. This was obviously a large effort since there are 33,904 miles of coast and the initial boundary was general. Local governments will use the same technique in setting their own program boundaries, and will be able to devote more effort to specific locations and sub-areas. ACMP believes that defining boundaries on the basis of actual biological and geophysical processes comes closest to the original intent of the CZMA's boundary requirements, and is also the best response to the variety of Alaska's coast.

The major difficulty in the technique adopted by ACMP is in determining whether a given site is within the boundary and in locating the actual boundary

on the ground. This is mitigated somewhat by map details, but more by some of the definition measures used. For example, in Southeast Alaska, the zone of direct interaction (which is part of the official interim boundary of the program until local boundaries are set) is defined to be the upper limit of the coastal forests, i.e., the tree line. This is because the forests contain a variety of factors which influence coastal waters and resources, but it is also extremely easy to determine exactly where the boundary is. Local boundary definitions will be more precise, and the guidelines and standards encourage the selected boundaries to be easily located.